

**ORDINANCE 528**

**AN ORDINANCE OF THE CITY COUNCIL OF SOLANA BEACH, CALIFORNIA, AMENDING CHAPTER 15.22 (ENERGY CODE) OF TITLE 15 (BUILDING AND CONSTRUCTION) OF THE SOLANA BEACH MUNICIPAL CODE RELATED TO CLIMATE ACTION THROUGH REQUIREMENTS FOR SOLAR ENERGY**

**WHEREAS**, consensus exists among the world's leading climate scientists that climate change caused by greenhouse gas (GHG) emissions from human activities is among the most significant problems facing the world today; and

**WHEREAS**, the City of Solana Beach declared a Climate Emergency in 2020; and

**WHEREAS**, the City of Solana Beach adopted a Climate Action Plan (CAP) that directs the City in reducing approximately 70,000 metric tons of GHG emissions annually by the year 2035 to meet reduction goals consistent with California's GHG targets; and

**WHEREAS**, measures in the CAP aim to curb the use of fossil fuels, a primary contributor to GHG emissions, in buildings and transportation; and

**WHEREAS**, reach codes that extend beyond the California Building Standards Code are being adopted by cities state-wide to accelerate GHG reductions through enhance solar electricity generation beyond state code requirements; and

**WHEREAS**, the City of Solana Beach wishes to adopt a reach code ordinance with modifications to enhance solar electricity generation within the City as part of Title 15 of the Municipal Code; and

**WHEREAS**, Public Resources Code Sections 18941.5(b) and 17958.7 allow for more restrictive local amendments to the Building Standards Code that are reasonably necessary because of local climatic, geological, or topographical conditions; and

**WHEREAS**, Public Resources Code Section 25402.1(h)(2) and Section 10-106 of the Building Energy Efficiency Standards establish a process by which local governments may adopt more stringent energy efficiency standards provided that the more stringent standards are cost-effective and the California Energy Commission finds that the standards will require buildings to be designed to consume no more energy than permitted by the California Energy Code; and

**WHEREAS**, studies prepared by the California Energy Codes & Standards program for the 2022 Energy Code Cycle demonstrate that the solar PV requirements of the proposed amendments to the 2022 California Energy Code, Title 24, Part 6, are cost-effective; and

**WHEREAS**, as required by Health and Safety Code section 17958, the City of Solana Beach does herewith make express findings that amendments to the California Building Standards Code are necessary for the protection of the public health, safety and welfare due certain climatic, topographic or geological features existing in the City of Solana Beach. The City Council hereby makes the following findings concerning the special circumstances and the climatic, topographic and geological conditions existing in the City of Solana Beach:

1. The City has over 1.7 miles of beaches, a creek, and other low-lying areas prone to flooding. The City is at risk to coastal storms, erosion, and flooding. There is broad scientific consensus that the earth will continue to warm and sea levels will rise impacting beaches, roads, properties, infrastructure, and environmentally sensitive areas.
2. The City has experienced increases in annual temperature. Annual temperatures have increased more than 1 degree Fahrenheit in many parts of the state and have exceeded increases of 2 degrees Fahrenheit in areas that include the San Diego region. Temperature increases are expected to continue into the future.
3. The City is situated in hilly, inland terrain. Approximately 50% of the area, for fire purposes, is wildland", covered by native vegetation on steep inaccessible hillsides. The native ground cover is highly combustible grasses, dense brush and chaparral. Natural firebreaks in these areas are insignificant.
4. The City experiences seasonal climatic conditions during the late summer and fall that can result in frequent Santa Ana weather patterns. Dry, hot, strong, and gusty Santa Ana wind conditions produce extreme dryness and some of the highest wind events in San Diego County, resulting in some of the region's most catastrophic wildfires. These fires impact public health in the populated coastal zone through extreme heat and smoke.
5. The topography of the City is such that its boundaries enclose an area of 3.5 square miles that is mostly built out. As such, construction activity in the City is dominated by residential and commercial remodeling projects that significantly alter original or existing building structures rather than by new development and construction projects. The building code needs to address these significant modifications to the existing building stock.
6. The City acts to address environmental conditions that impact public health and welfare. Sustainability and resiliency are core values of the City's General Plan and Climate Action Plan. Energy Efficiency promotes public health and welfare by enhancing the environmental and economic health of the City through green practices in design, construction, maintenance, and operation of new and existing buildings. Construction of energy efficient buildings and installation of renewable energy systems protects the public health and welfare by reducing air pollution,

greenhouse gas emissions, average and peak energy demand, and adverse impacts from power outages.

7. Amendments to the California Building Code and the California Energy Code are reasonably necessary to promote energy efficiency and conservation in the City, increase use of sustainable energy sources, reduce GHG emissions, promote green development patterns, and maintain a long-term balance between environmental, social, and economic impacts that protect public health and welfare.

**NOW THEREFORE**, the City Council of the City of Solana Beach, California, does ordain as follows:

### **SECTION 1. FINDINGS.**

The City Council finds and determines that the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City Council. The recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this Ordinance.

### **SECTION 2. ENVIRONMENTAL REVIEW.**

This Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15308 of the CEQA Guidelines (14 CCR 15308) because it is an activity undertaken to assure the maintenance, restoration, enhancement and protection of the environment.

### **SECTION 3. ADDITION OF SECTIONS 15.22.020 THROUGH 15.22.040 TO THE SOLANA BEACH MUNICIPAL CODE.**

Sections 15.22.020 through 15.22.030 of the Solana Beach Municipal Code are hereby repealed in their entirety. Sections 15.22.020 through 15.22.040 are hereby added to amend the 2022 California Building Standards Code, California Code of Regulations, Title 24, Part 2 and Part 6 and shall read as follows:

### **CHAPTER 15.22 BUILDING CODE AND ENERGY CODE**

#### **15.22.020 Applicability**

The requirements of this Chapter shall apply at the time of building permit application for all Newly Constructed buildings, as defined in Section 100.1(b) of Title 24, Part 6, Definitions, of the California Code of Regulations, and as amended by Solana Beach Municipal Code Section 15.22.030.

#### **15.22.030 Definitions**

Section 202 of Title 24, Part 2, Chapter 2, Definitions, of the California Code of Regulations, is hereby amended to modify the definition of Newly Constructed to read:

**NEWLY CONSTRUCTED or NEW CONSTRUCTION [HCD 1-AC]** means a building that is new construction, previously unoccupied or substantially Remodeled (as defined herein). Any construction work, alteration, remodel, replacement, repair, or renovation of any building(s) or structure(s) (collectively "Remodel") shall be considered "New Construction" when:

A. Residential Remodel.

1. Any construction that Remodels more than fifty percent (50%) of any of the following major structural components:
  - (i) exterior walls (measured by linear feet);
  - (ii) interior walls (measured by linear feet), except where the building or structure is less than 1200 square feet;
  - (iii) roof (measured by square footage);
  - (iv) floor and/or foundation (measured by square footage); or
2. The addition of seven hundred (700) or more square feet of floor area.

B. Nonresidential Remodel.

1. Any construction that Remodels more than fifty percent (50%) of any of the following major structural components:
  - (i) exterior walls (measured by linear feet);
  - (ii) interior walls (measured by linear feet);
  - (iii) roof (measured by square footage);
  - (iv) floor and/or foundation (measured by square footage); or
2. The addition of fifty percent (50%) or more of floor area to the building (measured by square footage); or
3. The Remodel project has a permit valuation of four hundred thousand dollars (\$400,000) or more.

Section 100.1(b) of Title 24, Part 6, Definitions, of the California Code of Regulations is amended to modify the following definition:

**NEWLY CONSTRUCTED** or **NEW CONSTRUCTION** shall have the meaning as defined in Title 24, Part 2, Chapter 2, Section 202, of the California Code of Regulations as amended by Solana Beach Municipal Code Section 15.22.030.

**15.22.040 Nonresidential and High-Rise Residential Photovoltaic System Required**

Section 120.11 is added to the California Energy Code as follows:

**Section 120.11 - NONRESIDENTIAL PHOTOVOLTAIC SYSTEM REQUIRED**

All Newly Constructed Nonresidential and Hotel/Motel buildings shall be required to install an on-site photovoltaic system. The required installation of a photovoltaic (PV) system shall comply with Section 140.10(a). All exceptions to Section 140.10(a) apply.

**Exceptions applicable to Remodels that qualify as New Construction:**

- A. When a Remodel of a Nonresidential multi-tenant building (whether to a tenant's leased premises within the building or to the common area of the building or project) qualifies as New Construction, compliance with the requirements herein concerning the size of the photovoltaic system shall be based on the conditioned floor area (CFA) controlled by the applicant.
  - (i) Where there is construction to a leased premises that only concerns the leased premises, the size of the photovoltaic system will be based on the conditioned floor area (CFA) of the leased premises being Remodeled controlled by the applicant. (For example, for a tenant improvement that only affects the tenant's portion of a building's total gross floor area.)
  - (ii) Where there is construction to the common area of a building or project, the size of the photovoltaic system will be based on the conditioned floor area (CFA) of the common area of the building or project that is owned or controlled by the property owner consisting of interior lobbies, hallways, bathrooms, and mailrooms located inside the building. (For example, a Remodel of a building that only affects common area of the building or project.)
- B. The building official may reduce (by the minimum extent necessary) or waive the requirements of this Section 120.11 if the official determines that (i) there are sufficient "practical challenges" to make compliance with the requirements infeasible or (ii) that the size of the photovoltaic system required herein exceeds the reasonable average annual electricity demand for the proposed use of the building or premises. "Practical challenges" may be a result of the building site location, limited rooftop availability, or shading from nearby structures, topography, or vegetation. The applicant is responsible for submitting written documentation that demonstrates (i) the infeasibility of the requirement or (ii)

that the electrical demand for the building (or leased premises) based on the proposed use of the building (or leased premises) is lower than the electricity production from the required system size. The applicant's request for modification or exemption from this requirement shall include a written report from a certified energy analyst and other qualified consultants as may be required by the building official that demonstrate the infeasibility of the requirement or that the electrical demand for the building based on the proposed use of the building. The City's certified energy analyst and/or other consultants shall confirm the report and analysis provided by the applicant.

- C. The building official may waive or reduce, by the extent necessary, the provisions of this section 120.11 above if the official determines that the building has satisfied the purpose and intent of this provision through the use of alternate on-site zero carbon, renewable generation systems such as wind energy systems.
- D. Greenhouse structures used for commercial cultivation, educational purposes, or the conservancy of plants or animals are exempted from the requirements of this Section 120.11. The Community Development Director or his or her designee may exempt other greenhouse structure uses on a case-by-case basis.
- E. An applicant may install a ground-mounted solar PV system that meets the requirements of Section 120.11 as a voluntary alternative to installing rooftop solar PV. The ground-mounted solar photovoltaic system shall comply with all existing health and safety requirements and limitations in the City.

Section 160.10 is added to the California Energy Code as follows:

**Section 160.10 – HIGH-RISE RESIDENTIAL PHOTOVOLTAIC SYSTEM REQUIRED**

All Newly Constructed High-Rise Residential buildings shall be required to install an on-site photovoltaic system. The required installation of a photovoltaic (PV) system shall comply with Section 170.2(g). All exceptions to Section 170.2(g) apply.

**Exceptions applicable to Remodels that qualify as New Construction:**

- A. The building official may reduce (by the minimum extent necessary) or waive the requirements of this Section 160.10 if the official determines that (i) there are sufficient "practical challenges" to make compliance with the requirements infeasible or (ii) that the size of the photovoltaic system required herein exceeds the reasonable average annual electricity demand for the proposed use of the building or premises. "Practical challenges" may be a result of the building site location, limited rooftop availability, or shading from nearby structures, topography, or vegetation. The applicant is responsible for submitting written documentation that demonstrates (i) the infeasibility of the requirement or (ii)

that the electrical demand for the building (or leased premises) based on the proposed use of the building (or leased premises) is lower than the electricity production from the required system size. The applicant's request for modification or exemption from this requirement shall include a written report from a certified energy analyst and other qualified consultants as may be required by the building official that demonstrate the infeasibility of the requirement or that the electrical demand for the building based on the proposed use is less than the projected production of the otherwise-required solar PV system. The City's certified energy analyst and/or other consultants shall confirm the report and analysis provided by the applicant.

- B. The building official may waive or reduce, by the extent necessary, the provisions of this Section 160.10 above if the official determines that the building has satisfied the purpose and intent of this provision through the use of alternate on-site zero carbon, renewable generation systems such as wind energy systems.
- C. An applicant may install a ground-mounted solar PV system that meets the requirements of Section 160.10 as a voluntary alternative to installing rooftop solar PV. The ground-mounted solar photovoltaic system shall comply with all existing health and safety requirements and limitations in the City.

**SECTION 4. SEVERABILITY.**

If any section, subsection, paragraph, sentence, clause, phrase or term (each a "Provision") in this Ordinance, or any Provision's application to any person or circumstance, is held illegal, invalid or unconstitutional by a court of competent jurisdiction, all other Provisions not held illegal, invalid or unconstitutional, or such Provision's application to other persons or circumstances, shall not be affected. The City Council declares that it would have passed this Ordinance, and each Provision therein, whether any one or more Provisions be declared illegal, invalid or unconstitutional.

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**SECTION 5. PUBLICATION AND EFFECTIVE DATE.**

Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code Section 36933. This Ordinance shall become effective 30 days after its adoption and shall be in full force and effect 30 days after adoption, on January 1, 2023 or following submission to and approval by the California Energy Commission pursuant to applicable law, whichever is later.

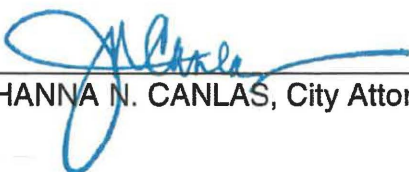
**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Solana Beach, California on the 26<sup>th</sup> day of October, 2022; and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Solana Beach, California on the 9<sup>th</sup> day of November, 2022, by the following vote:

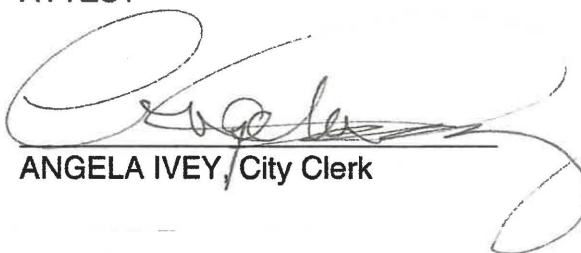
AYES: Councilmembers – Heebner, Harless, Zito, Edson, Becker  
NOES: Councilmembers – None  
ABSTAIN: Councilmembers – None  
ABSENT: Councilmembers – None

  
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LESA HEEBNER, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

ATTEST

  
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ANGELA IVEY, City Clerk

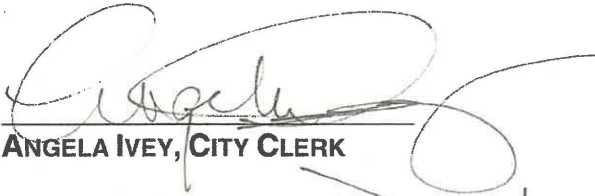




## ORDINANCE CERTIFICATION

STATE OF CALIFORNIA }  
COUNTY OF SAN DIEGO } §  
CITY OF SOLANA BEACH }

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of **ORDINANCE 528** amending Chapter 15.22 (Energy Code) of Title 15 (Building and Construction) of the Solana Beach Municipal Code related to climate action through requirements for solar energy by the City Council of Solana Beach. This Ordinance has been published as required pursuant to law and the original is filed in the City Clerk's Office. (GC 40806).

  
ANGELA IVEY, CITY CLERK

CERTIFICATION DATE: December 13, 2022