

ORDINANCE NO. _____ C.M.S.

AN EMERGENCY ORDINANCE ENACTING INTERIM PROCEDURES THAT WAIVE CURRENT DESIGN REVIEW REQUIREMENTS FOR THE INSTALLATION OF RENEWABLE ENERGY PRODUCTION FACILITIES WITHIN ANY ZONING DISTRICT, AND SUSPENDING ALL CONFLICTING DESIGN REVIEW RELATED CODES AND REGULATIONS, FOR A TWO YEAR PERIOD

WHEREAS, on January 18, 2001, Governor Gray Davis declared a state of emergency for the State of California due to the current energy crisis; and

WHEREAS, the City of Oakland is currently experiencing an energy crisis and the real threat of rolling blackouts in the near future; and

WHEREAS, the City of Oakland recognizes the need to promote the use of renewable energy; and

WHEREAS, Renewable Energy Production Facilities use a renewable energy resource, provide energy locally, and reduce dependence on the statewide energy supply system; and

WHEREAS, current design review requirements throughout the city impose application fees and processing time for installation of Renewable Energy Production Facilities that cause an impediment to installation of these facilities; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland’s environmental review requirements, have been satisfied, and, in accordance with Sections 15061(b)(3) "General Rule", 15301(e) "Existing Facilities", 15303(e) "New Construction or Conversion of Small Structures", and/or 15269(c) "Actions to Prevent an Emergency" of the California Code of Regulations, this project is exempt from the provisions of CEQA; and

WHEREAS, because of the foregoing, it is both urgent and essential to the general health, safety and welfare of the City of Oakland and its citizens and to the promotion of proper land use, including adequate access to energy resources, to waive current design review requirements for the installation of Renewable Energy Production Facilities within any zoning district that comply with those development standards listed in Section 1 of this Ordinance; and

WHEREAS, the Council finds and determines that the public safety, health, convenience, and general welfare will be furthered by the interim procedures; now therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Criteria for Exemption from Design Review Procedures:

1. Renewable Energy Production Facilities (REPF's) are defined as those facilities that use renewable sources of energy (that include but are not limited to photovoltaic and thermal solar panels, and wind-activated devices) as an alternative energy source to the statewide energy supply system.
2. The following development standards shall apply in determining exemption from design review procedures when installing REPF's within any zoning district:
 - A. REPF's Installed on the Roof of a Building. No such REPF which is located on the roof of a building shall extend more than two feet above the roof plane on which the REPF is located (measured at a perpendicular angle to the roof plane) if the roof has a slope of 2:12 or steeper, or more than seven feet above the roof plane or parapet wall if the roof has a slope shallower than 2:12. When located on a roof that has a slope of 2:12 or steeper, no such REPF shall be located to extend more than two feet above the roof ridge-line if the plane of the roof is not readily visible from the public right-of-way, or any distance above the ridge-line if such plane is readily visible from the public right-of-way. No such REPF located on a roof that has a slope of 2:12 or steeper shall extend more than two feet below the actual roof-line. No such REPF shall be located within three feet from any property line.
 - B. REPF's Installed on the Exterior Wall of a Building. Such REPF shall not be located within the half of a lot closest to the front property line, or within the required street side yard. No such REPF shall encroach within three feet of rear and interior side yard property lines.
 - C. Freestanding REPF's. No such freestanding REPF shall extend more than six feet above finished grade. Such REPF shall not be located within the half of a lot closest to the front property line, or within the required street side yard. Such REPF shall otherwise be exempt from rear and interior side yard setback requirements.
 - D. All such REPF's shall be placed, screened, or designed in such a way as to avoid casting an unreasonable amount of glare into the windows of any residentially zoned lot located within one hundred fifty feet.
 - E. If such REPF does not comply with Sections A through D above, then it will be subject to design review for REPF's such that: the application for design review shall be considered by the Director of City Planning. The Director shall determine whether the proposal conforms to the applicable design review criteria listed below. The Director may approve or disapprove the proposal and may require such changes therein or impose such reasonable conditions of approval as are in the Director's judgement necessary to ensure conformity to

said criteria. The Director's decision shall be in writing, and shall be final immediately. If the Director's decision involves a property in the S-7 zone or on a designated landmark site, a copy of the decision shall be forwarded to the Landmarks Preservation Advisory Board. The Director shall approve the application within five working days from the date of submittal of a complete application. Design review for REPF's using the above procedure shall be free of charge, and will include the sole finding that installation of the renewable energy production facility preserves the overall architectural integrity of the structure and/or the property on which it is located.

- F. Should the design review findings for REPF's not be made, then the REPF's shall be reviewed pursuant to existing design review procedures as listed Chapters 17.136 and 17.146 of the Oakland Planning Code. Such existing design review procedures shall be subject to the applicable fees.
- G. The method for determining compliance with the development standards listed hereinabove shall include specific self-certification checklist procedures to be determined by the Planning Director.

SECTION 2. If the REPF's meet the development standards and findings in Sections 1.2.A through 1.2.E above, then fees for checklist review and for design review for REPF's will be waived.

SECTION 3. The City Council finds and determines the foregoing recitals to be true and correct.

SECTION 4. This Ordinance shall be effective immediately and shall remain in effect for a period of two years from the effective date of approval of this Ordinance.

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of such provisions to other persons or circumstances shall not be affected.

SECTION 6. This Ordinance suspends, for the interim period, all conflicting design review related City of Oakland codes and regulations for a two year period.

SECTION 7. The City Manager is directed to have appropriate signage posted to provide notice to the public of the interim procedures imposed by this Ordinance.

SECTION 8. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the City Charter of the City of Oakland and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2001

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MAYNE, NADEL, REID, WAN, SPEES, AND
PRESIDENT DE LA FUENTE,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California