

CITY OF OAKLAND
COUNCIL AGENDA REPORT

TO: Office of the City Manager
ATTN: Robert C. Bobb
FROM: Community and Economic Development Agency
DATE: May 22, 2001
RE: 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

SUMMARY

This report proposes an emergency ordinance waiving existing design review requirements and the requisite application fees for the installation of Renewable Energy Production Facilities in all zoning districts. For the purposes of this ordinance, "Renewable Energy Production Facilities" 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. For Renewable Energy Production Facilities to be exempt from design review procedures, they will have to comply with certain development standards outlined in the ordinance. If the Renewable Energy Production Facilities do not comply with the development standards, they will be subject to a process similar to the small project design review procedure established in Section 17.136.050 of the Oakland Planning Code. However, the difference is that design review for Renewable Energy Production Facilities (as fully described under "Project Description") will 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. The design review for Renewable Energy Production Facilities would take five working days to process. These interim procedures will be in effect for a period of two years.

Given the current energy crisis and corresponding state of emergency declared by Governor Gray Davis, the City should aggressively encourage energy conservation and the use of renewable energy. Waiving design review requirements and fees for Renewable Energy Production Facilities is considered an appropriate incentive.

FISCAL IMPACTS

Currently, depending on the zoning district and the extent of the proposed development, the application fee for special residential design review is \$397, while regular design review costs \$1,088. This revenue would be lost since both checklist review and design review for Renewable Energy Production Facilities would be conducted without fees. However, because staff receives a relatively small number of such applications annually, and with the new proposed standards, true staff time required for review will be minimal, the net loss in revenue from this ordinance would be insignificant.

BACKGROUND

In light of the energy crisis, Governor Gray Davis declared a state of emergency on January 18, 2001. The City of Oakland is committed to reducing municipal energy consumption by 10% and city staff is working diligently to achieve this goal. As part of its overall energy conservation plan, the City should make an effort to encourage its citizens to conserve energy and use alternative energy generating methods.

During the past three months, city staff has received a large number of inquiries regarding incentives available to citizens who currently use or plan to install Renewable Energy Production Facilities. In addition, staff has received a number of complaints regarding the expense and the design review requirements imposed on residents who plan to install Renewable Energy Production Facilities.

Currently, the type of design review to which Renewable Energy Production Facility installations are subject is dependent on the zoning district in which a project lies. Requirements can range from special residential design review (for example, for installations within R-30 one-family residential districts) to regular design review (for example, for installations within C-28 commercial shopping districts). Special residential design review lasts about three weeks and costs \$397. Regular design review can last from six to eight weeks and costs \$1,088.

PROJECT DESCRIPTION

The proposed emergency ordinance exempts Renewable Energy Production Facility installations from current design review requirements if they comply with the development standards listed in Section 1 of the ordinance, including matching the pitch of a sloped roof, or if freestanding, having a maximum height of six feet above finished grade, or, if located on a wall, mounted so as to minimize visibility from a public area. If the facilities do not comply with the development standards, they will be subject to design review for Renewable Energy Production Facilities 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. 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 Renewable Energy Production Facilities 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.

To determine which Renewable Energy Production Facilities will be exempt from design review for Renewable Energy Production Facilities, the Planning Director will develop a self-certification checklist procedure. The checklist procedure will enable the owner of the affected property or an authorized agent to document how the project complies with the development standards outlined in the ordinance. During construction inspection by the Building Services Department, the project will be compared on-site to the checklist declaration. If the installed development matches the checklist declaration, the construction inspection is approved. If not, then the owner/agent will be directed to obtain approval of design review for Renewable Energy Production Facilities prior to approval of the inspection, based on the design criteria 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. If this finding cannot be made using design review for Renewable Energy Production Facilities, then the project must be reviewed pursuant to design review procedures already established in the Oakland Planning Code. Such existing design review procedures shall be subject to applicable fees.

KEY ISSUES AND IMPACTS

Because of the current energy crisis, it is imperative that alternate means of generating energy for private use are developed throughout the City. Correctly located and installed Renewable Energy Production Facilities are not considered a nuisance to neighborhoods, but rather an improvement based on their adherence to the architectural integrity of the structure on which they are mounted, and because they add an accessory use to the property which aids in alleviating the energy shortage. Due to the great need for quick installation of these facilities, an exemption from current design review procedures will create a further incentive to install them. However, the development standards listed in Section 1 of the ordinance and the subsequent design review for Renewable Energy Production Facilities will ensure that the quality of the location and installation of the facility is maintained. Therefore, no adverse impacts are expected to result from this emergency ordinance.

ENVIRONMENTAL DETERMINATION

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.

RECOMMENDATION

Staff recommends that the Council adopt the emergency ordinance.

ACTION REQUESTED OF THE CITY COUNCIL

1. Affirm staff's environmental determination.
2. Adopt the attached emergency ordinance to waive current design review requirements for installation of Renewable Energy Production Facilities within any zoning district for a period of two years.

Respectfully submitted,

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CEDA Director

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APPROVED AND FORWARDED TO THE
CITY COUNCIL

ROBERT C. BOBB
City Manager