

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING PALM SPRINGS ZONING CODE CHAPTER 93.00 TO ADD SECTIONS 93.16.00 THROUGH 93.16.09 AND AMEND SECTIONS 92.17.1.01, 92.17.2.01, 92.20.01 92.21.01 AND 93.03.00 TO FACILITATE SOLAR ENERGY SYSTEMS (CASE 5.1470 ZTA).

City Attorney's Summary

This Ordinance adds a new Chapter to the Palm Springs Zoning Code that will facilitate the installation of solar energy systems by establishing height, visibility and setback standards and allowing solar energy systems in all zoning districts. Additional requirements will apply for structures in Environmentally Sensitive Area Specific Plan zones. This Ordinance also will help streamline installation of solar energy systems on new residential construction three (3) stories and under, which will be required as part of the 2019 California Energy Code, which takes effect January 1, 2020.

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

- A. The Sustainability Commission of the City of Palm Springs, by vote of 11 to 0 at its meeting of March 19, 2019, approved draft amendments to the Zoning Code to encourage the use and development of solar energy systems and solar energy facilities and recommended that the City forward the draft ordinance to the Planning Commission for adoption.
- B. Notice of a public hearing of the Planning Commission of the City of Palm Springs to consider Case 5.1470 ZTA was given in accordance with applicable law.
- C. On June 26, 2019, a public hearing on the proposed Zone Text Amendment was held by the Planning Commission in accordance with applicable law, at which meeting the Planning Commission voted 5-0-2 to recommend approval of the proposed amendments.
- D. On July 24, 2019, the City Council held a noticed public hearing on the proposed Zone Text Amendment in accordance with applicable law. Following the public hearing, City Council provided direction to the Planning and Sustainability Commissions and voted 5-0 to table the Zone Text Amendment pending further revisions by these Commissions to ensure the Amendment was sufficiently supportive of solar energy system adoption.
- E. The Sustainability Commission, by vote of _ to _ at its meeting of September 17, 2019, approved the revised amendments to the Zoning Code and recommended that the City forward the revised ordinance to the Planning Commission for adoption.

F. Notice of a public hearing of the Planning Commission of the City of Palm Springs to consider Case 5.1470 ZTA was given in accordance with applicable law.

G. On [September 25], 2019, a public hearing on the revised Zone Text Amendment was held by the Planning Commission in accordance with applicable law, at which meeting the Planning Commission voted _ to _ to recommend approval of the proposed amendments.

H. On [October 23], 2019, the City Council held a noticed public hearing on the revised Zone Text Amendment in accordance with applicable law.

I. The proposed Zone Text Amendment is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 *et. seq.*) pursuant to Section 15060(c)(2) and 15060(c)(3) of the State Guidelines, because the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project," as that term is defined in Section 15378 of the State Guidelines. Certain structures and projects allowable under this proposed Zone Text Amendment would require an environmental evaluation under the California Environmental Quality Act (CEQA) at the time an application is filed for such development.

J. The City Council has carefully reviewed and considered all the evidence presented in connection with the hearing on the Zone Text Amendment, including, but not limited to, the staff report, and all written and oral testimony presented.

K. The City Council finds that approval of the proposed Zone Text Amendment would:

1. Allow solar energy systems in all zoning districts, with additional requirements for the Environmentally Sensitive Area Specific Plan zone.

2. Provide guidelines for placement, height, and setbacks for solar energy systems.

3. Facilitate implementation of the 2019 California Energy Code, which takes effect January 1, 2020, by providing a consolidated location for city solar zoning requirements. The new Energy Code will, among its provisions, require all new residential construction three (3) stories and under to install a solar energy system.

4. Implement the following goals of the General Plan:

- Support and encourage the use of alternative energy in the construction of new buildings and retrofit of existing buildings;
- Encourage and support the incorporation of energy efficiency and conservation practices in subdivision and building design;
- Make the maximum use of solar electric capabilities on an individual and community wide basis.

5. Implement the following goals of the Sustainability Plan:

- Develop strategies to reduce community-wide contributions to greenhouse gas emissions to 1990 levels by 2020 and 80% below 1990 by 2050;
- Encourage the building or retrofitting of one million square feet of green buildings;
- Reduce the total energy use by all buildings built before 2012 by 10%;
- Reduce energy use and carbon use from new homes and buildings;
- Supply 50% of all energy from renewable sources by 2030.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That the findings and determinations reflected above are true and correct and are incorporated by this reference herein as the cause and foundation for the action taken by and through this Ordinance.

SECTION 2. Chapter 93.00 of the Palm Springs Zoning Code is amended to add Sections 93.16.00 through 93.16.09 as follows:

93.16.00 Solar Energy Systems and Facilities

Sections 93.16.00 through 93.16.09 constitute the zoning regulations for solar energy systems and solar energy facilities in the City.

93.16.01 Short Title

Sections 93.16.00 through 93.16.09 may be referred to as the Solar Zoning Ordinance of the City of Palm Springs.

93.16.02 Purpose

Recognizing that the Sustainability Plan has set a vision of Palm Springs as a high efficiency, renewable energy city, the City Council finds that it is in the public interest to reduce energy demand, encourage the use and development of solar energy systems as a clean, renewable energy source and to help promote local, renewable energy jobs. The purpose of this Solar Zoning Ordinance is to facilitate the effective and efficient use of solar energy systems by the residents, businesses and institutions of Palm Springs while protecting the public health, safety and welfare.

93.16.03 Definitions

“Solar access” means space open to the sun and clear of overhangs or shade, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

“Solar energy system” shall have the meaning assigned to it in Section 8.100.020 of the Palm Springs Municipal Code.

“Solar energy facilities” means an alternative energy facility that consists of one or more ground-mounted or free-standing solar collection devices, solar energy related equipment (including storage) and other associated infrastructure with the primary intention of generating electricity or otherwise converting solar energy to a different form of energy for primarily commercial or other off-site use.

93.16.04 Permitted Accessory Use

A. Solar energy systems are permitted in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in the applicable zoning district and the specific criteria set forth in this Solar Zoning Ordinance. In the ESA-SP zone, a solar energy system that is structurally mounted to the roof of a single-family dwelling or multi-family residential building that is permitted under Section 92.21.1.01 shall be considered an accessory use under Subdivisions (A)(2) and (B)(6) of such section.

B. For purposes of determining compliance with building coverage standards of the applicable zoning district, the total horizontal projection area of all ground-mounted and free-standing solar collectors, including solar photovoltaic cells, panels, arrays, inverters, shall be considered pervious coverage only if pervious conditions are maintained underneath the solar photovoltaic cells, panels, and arrays.

C. Installation or replacement of solar energy systems that does not change the use or the basic exterior characteristics or appearance of a non-conforming building or structure is allowed.

D. Solar energy systems may generate energy in excess of the energy requirements of a property if the energy is to be credited under an applicable net energy metering program or used or stored onsite.

93.16.05 Height, Visibility and Setback Requirements

A. Roof-mounted solar energy systems shall be subject to the following requirements and allowances:

1. Roof-mounted solar energy systems may extend up to five (5) feet above the roof surface on which they are installed, even if this exceeds the maximum height limit in the zoning district in which the structure is located.

2. Roof-mounted solar energy systems shall be designed and located in a manner that minimizes their visibility from public streets without compromising the effectiveness of the solar collectors. All solar energy systems on single-family dwellings not conforming to the roof profile are subject to the approval of the Director.

B. Ground-mounted solar energy systems shall be subject to the following requirements and allowances:

1. All ground-mounted solar energy systems for single-family dwellings are subject to the approval of the Director.

2. All other ground-mounted solar energy systems shall be designed and located in a manner that minimizes their visibility from public streets without compromising the effectiveness of the solar collectors.

3. The setback of ground-mounted solar energy systems accessory to a multi-family dwelling principal use or accessory to a principal use in non-residential zoning districts is subject to the following additional standards:

a. Solar collectors are allowed to be located up to half (1/2) of the setback that would otherwise apply from the front, side or rear property line.

b. Accessory equipment also may be installed within the required side and rear setback but shall not be closer than two (2) feet to any property line.

C. The review and determination of visibility from public streets shall be made by the Director. The review and determination of effectiveness of solar collectors shall be made by the Manager of the Office of Sustainability.

D. Solar energy systems in the ESA-SP zoning district shall comply with the design standards set out in Section 92.21.1.05.

93.16.06 Solar Energy Facilities

As stated in Subdivision (D)(9)(a) of Section 92.17.1.01, Subdivision (D)(7)(a) of Section 92.17.2.01, Subdivisions (B)(1)(b)(i) and (B)(2)(a)(i) of Section 92.20.01 and Subdivision (D)(2)(a) of Section 92.21.01, solar energy facilities may be permitted in the zoning districts referred to in such sections, subject to approval of a conditional use permit, as provided in Section 94.02.00.

93.16.07 Protection of Solar Access

A structure, fence, or wall shall not be constructed or modified in a residential zoning district so as to obstruct the solar access of a solar energy system on a neighboring parcel to a degree that significantly decreases (as such term is defined in Subdivision (B)(2)(a) of Section 93.16.05) the energy performance of the system. The Planning Commission may modify this requirement if it finds that strict compliance would unduly limit property development, or unduly interfere with the development potential as envisioned for the area in the General Plan or Zoning Code. Vegetation is encouraged to be sited to reduce solar gain while not obstructing solar access insofar as practical.

93.16.08 Solar Orientation

Dwelling units in subdivisions of five (5) or more lots are encouraged to be sited to reduce solar gain as well as to take advantage of solar access and provide maximum exposure of roof area to the sun insofar as practical, including their orientation with respect to sun angles.

93.16.09 Building, Construction and Permitting

Building, construction and permitting of solar energy systems and solar energy facilities shall be subject to the provisions of Title 8 of the Palm Springs Municipal Code including Chapters 8.04, 8.05 and 8.100 thereof, as applicable.

SECTION 3. The term "solar collectors" in Subdivision (D)(9)(a) of Section 92.17.1.01, Subdivision (D)(7)(a) of Section 92.17.2.01, Subdivisions (B)(1)(b)(i) and (B)(2)(a)(i) of Section 92.20.01 and Subdivision (D)(2)(a) of Section 92.21.01 is replaced by the term "Solar energy facilities as defined in Section 93.16.03".

SECTION 4. Subdivision (C)(3) of Section 93.03.00 of the Palm Springs Zoning Code is rescinded.

SECTION 5. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

SECTION 6. The proposed Zone Text Amendment is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to Section 15060(c)(2) and 15060(c)(3) of the State Guidelines, because the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a "project," as that term is defined in Section 15378 of the State Guidelines.

SECTION 7. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS ____ DAY OF _____, 2019.

Robert Moon, Mayor

ATTEST:

Anthony Mejia, MMC, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, Anthony Mejia, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and introduced by the City Council at a regular meeting held on the ___th day of [October], 2019, and adopted at a regular meeting of the City Council held on the ___ day of [November], 2019 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ANTHONY MEJIA, MMC
CITY CLERK