

The logo features a yellow map of California with county boundaries, set against a blue circular background. A white horizontal bar with rounded ends is superimposed over the map, containing the text "California County Planning Directors Association" in black.

California County Planning Directors Association

# **Model Solar Energy Facility Permit Streamlining Ordinance**

## **Appendix A**

to

## **Model Solar Energy Facility Permit Streamlining Guide**

February 3, 2012

<http://www.ccpda.org>

**AN ORDINANCE AMENDING ORDINANCE NO. \_\_\_\_\_ OF THE  
COUNTY CODE OF (\_\_\_\_\_) TO PROVIDE FOR THE PERMITTING  
OF SOLAR ENERGY FACILITIES**

**1. DEFINITIONS**

- A.** “Applicant” is the Landowner, developer, facility owner, and/or operator with legal control of the project, including heirs, successors and assigns, who has filed an application for development of a Solar Energy Facility under this Ordinance.
- B.** “Parcel” means all land within a legally established parcel.
- C.** “Practicable” means it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
- D.** “Landowner” means the persons or entities possessing legal title to the Parcel(s) upon which a SEF is located.
- E.** “Protected Lands” means, for the purpose of this chapter only, lands containing resources that are protected or regulated by established regulatory standards of local, state, and federal agencies, conservation easements or other contractual instruments in such a way that prohibits or limits development of those lands.
- F.** “Review Authority” means applicable county or city land use decision-making body as determined by local ordinance and appeal procedures.
- G.** “Solar Energy Facility (SEF)” means a Solar Electric System that satisfies the parameters set out in Tiers 1 through 3 below.
- H.** “Solar Electric System (SES)” means the components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.
- I.** “Renewable Energy Combining Zone” means a zoning district that may be combined with other base zoning and applied to specific geographic areas within the County, where the County has determined the land is suitable for a specified variety of Solar Energy Facilities and where permitting for such facilities may be expedited if specified conditions are met.
- O.** “Uses Allowed” means one of the following:
  - i. Accessory Use – a SEF designed primarily for serving on-site needs or a use that is related to the Primary Use of the property.
  - ii. Direct Use – a SEF designed and installed to provide on-site energy demand for any legally established use of the property.

- iii. Primary Use – a SEF that uses over 50% of the Parcel(s) and is devoted to solar electric power generation primarily for use off-site.
  - iv. Secondary Incidental Use – a SEF that provides up to 125% of on-site electricity (or hot water) demand and generally less than 50% of the building site area, or 15-25% of the Parcel land area.
  - v. Secondary Use – a SEF that is not the Primary Use of the property and uses less than 50% of the Parcel(s).
- P.** “Williamson Act Contracted Parcel” means a Parcel of land that is in contract with a local authority for the preservation of agricultural and open space land per the Land Conservation Act of 1965 or similar local agricultural land preservation programs.

## **2. PURPOSE**

The purpose of the Ordinance is to facilitate the construction, installation and operation of a Solar Energy Facilities (SEFs) in the County of (\_\_\_\_\_) in a manner that protects public health, safety and welfare and avoids significant impacts to protected resources such as important agricultural lands, endangered species, high value biological habitats and other protected resources. It is the intent of this ordinance to encourage solar facilities that reduce reliance on foreign petroleum supplies, increase local economic development and job creation, reduce greenhouse gas emissions, assist California in meeting its Renewable Portfolio Standards, and/or promote economic development diversification.

## **3. APPLICABILITY**

- A.** This Ordinance applies to the construction of any new SEF within the County.
- B.** A SEF legally established or permitted prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance, however:
  - i. Physical modification or alteration to an existing SEF that materially alters the size, type or components of the SEF shall be subject to this Ordinance. Only the modification or alteration is subject to this Ordinance;
  - ii. Substantial conformance review determinations are not major amendments to a project's existing permits; and
  - iii. Routine operation and maintenance or like-kind replacements do not require a permit.

## **4. PERMIT REQUIREMENTS**

The type of permit required for SEFs shall be as shown in Table 1 Permit Requirements (see following page).

Table 1. Permit Requirements

LAND USE/ZONING DISTRICT	Prime - WA	Non-prime - WA	Prime, Statewide, or Unique Farmland	Land Extensive Ag Non-prime or Grazing	Resource Lands	Timber Production	Renewable Energy Overlay Zone	Public Facilities	Industrial or Heavy Commercial	Industrial, Office or Business Park	General Commercial	Neighborhood Commercial	Foothill & Rural Residential 10+ ac	Rural Residential: 5 - 10 ac	Rural Residential: < 5 ac	Urban Residential	STANDARDS OR SPECIAL USE REGULATIONS
<b>UTILITY &amp; RESOURCE-BASED USES</b>																	
<b>Solar Energy Facilities (PV)</b>																	
<b>Direct Use</b>																	
On structures	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Health & Safety Standards
Ground-mounted up to 1/2 acre	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Accessory Use</b>																	
<15% of parcel up to 5 ac whichever is less	AP <sup>1</sup>	AP <sup>1</sup>	AP	AP	AP <sup>1</sup>	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	General Development Standards
<15% of parcel up to 10 ac whichever is less	—	AP <sup>1</sup>	AP	AP	AP <sup>1</sup>	AP	AP	AP	AP	AP	AP	—	AP	AP	AP	AP	
<b>Secondary Use</b>																	
< 30% of parcel up to 7 ac	MUP <sup>1</sup>	MUP <sup>1</sup>	AP <sup>2</sup>	AP <sup>2</sup>	AP <sup>1</sup>	AP	AP	AP	AP	AP	AP	—	AP	MUP	MUP	—	General Development Standards
< 30% of parcel up to 10 ac	MUP <sup>1</sup>	MUP <sup>1</sup>	MUP <sup>2</sup>	AP <sup>2</sup>	AP <sup>1</sup>	AP	AP	AP	AP	MUP	AP	—	MUP	—	—	—	
< 30% of parcel up to 20 ac	—	MUP <sup>1</sup>	CUP <sup>3</sup>	MUP <sup>2</sup>	AP <sup>1</sup>	MUP	AP	AP	AP	CUP	AP	—	CUP	—	—	—	
<b>Primary Use</b>																	
up to 15 ac	—	—	CUP <sup>3</sup>	MUP <sup>2</sup>	MUP <sup>1</sup>	CUP	AP	AP	AP	CUP	AP	—	—	—	—	—	General Development Standards
up to 20 ac	—	—	CUP <sup>3</sup>	MUP <sup>2</sup>	MUP <sup>1</sup>	—	AP	AP	AP	—	AP	—	—	—	—	—	
up to 30 acres	—	—	CUP <sup>3</sup>	CUP <sup>2</sup>	CUP <sup>1</sup>	—	MUP	MUP	MUP	—	MUP	—	—	—	—	—	
exceeds thresholds above	—	—	CUP <sup>3</sup>	CUP <sup>2</sup>	CUP <sup>1</sup>	—	CUP	CUP	CUP	—	CUP	—	—	—	—	—	
Notes:																	
1. If under a Land Conservation Act (Williamson Act) contract, the facility must be listed as compatible use in the locally adopted Ag Preserve Rules; allowed by the type of contract; and, no more than 15% of the parcel up to 5 acres under prime contracted lands or up to 10 acres if under a non-prime contract or designated as grazing lands, unless findings are made by the Board of Supervisors that a larger site area meets the principles of compatibility in Gov. Code Section 51238.1																	
2. Not on land under Land Conservation Act (Williamson Act) contract.																	
3. Not allowed except when included in Renewable Energy Combining Zone																	
<b>TYPE OF PERMIT REQUIRED</b>																	
<b>Tier 1</b>	<b>P</b>	Permitted Use - Ministerial; CEQA Exempt; Building Permit Only															
<b>Tier 2</b>	<b>AP</b>	Administrative Permit - Ministerial w/standards; CEQA exempt; no added conditions															
<b>Tier 3</b>	<b>MUP</b>	Minor Use Permit - Zoning Administrator or staff approval; noticed hearing; maybe CEQA exempt; can add conditions															
<b>Tier 4</b>	<b>CUP</b>	Conditional Use Permit - noticed hearing before Planning Commission; CEQA review; can add conditions															
	<b>—</b>	Not allowed															

## 5. PARCEL LINE SETBACKS

The following setbacks from the Parcel line to the closest part of the SEF shall be established as shown in Table 2. Fencing, roads and landscaping may occur within the setback. (Each County will need to establish their own setback requirements - the following table is intended to assist in this effort).

Zoning District	Tier 1	Tier 2	Tier 3		
			Front	Rear	Side
Ag Zone *	Per Zoning for that District	Per Zoning for that District	30'	30'	30'
Commercial *			30'	30'	30'
Industrial *			30'	30'	30'
Rural Residential (> 10 acres)			100'	100'	100'
Residential (<10 acres)			Per Zoning for that District		

\* Complies with required front yard setbacks, or otherwise does not impair sight distance for safe access to or from the property or other properties in the vicinity as determined by ministerial zoning clearance.

## 6. HEIGHT LIMITS

For ground mounted systems, height restrictions will be measured from natural grade below each module in the event the site has topographic changes. (Each County will need to establish their own height limits – Table 3 is intended to assist in this effort).

Zoning District	Tier 1	Tier 2	Tier 3
Ag or Rural Residential	Roof – 2' above roof surface Ground – 15'	Roof – 2' above roof surface and may project above the height limit Ground – 15'	Roof – 2' above roof surface and may project above the height limit Ground – 15-25'
Commercial or Industrial	Roof – 4' above roof surface and may project above the height limit Ground – 15'	Roof – 4' above roof surface and may project above the height limit Ground – 15'	Roof – 4' above roof surface and may project above the height limit Ground – 15-25'
Residential	Roof – 2' above roof surface and may project above the height limit Ground – 10'	Roof – 2' above roof surface and may project above the height limit Ground – 10'	Roof – 2' above roof surface and may project above the height limit Ground – 15'

## 7. GENERAL REQUIREMENTS (apply to all tiers unless otherwise noted)

### A. Building Permits Are Required –

- a. Nothing in this chapter modifies the minimum building standards required to construct a SEF, consistent with applicable building and fire codes. The SEF components and all accessory equipment shall comply with the most recently adopted Building Code as determined by the Building Official and Fire Code as determined by the Fire Official.
- b. A site plan shall be provided at the time of the Building Permit application demonstrating compliance with the setbacks in Tables 1 and 2.
- c. The Building Permit shall include review by local permitting departments including, but not limited to, the local Fire Authority, for Health and Safety Requirements.

**B. Right To Farm** – If the SEF is located on or adjacent to an agricultural zone, the Applicant must acknowledge the County's Right to Farm Ordinance and shall be required to record a Right to Farm Notice on their Parcel(s) prior to issuance of any Building Permits. This shall be included as a recommended condition of approval of the land use entitlement if a discretionary permit is required.

**C. Off-Site Facilities** – When the SEF is located on more than one Parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.

**D. Septic System Avoidance** – The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the Department of Environmental Health;

**E. Floodplain Avoidance** – If located in a floodplain as designated by FEMA, or an area of known localized flooding, all panels, electrical wiring, automatic transfer switches, inverters, etc. shall be located above the base flood elevation; and, shall not otherwise create a fire or other safety hazard as determined by the Building Official.

**F. Conform to Development Standards for Underlying Zone** – The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein;

### G. Visibility

- a. Scenic Areas – For Tier 2 and 3 SEFs in Scenic areas, as designated in the General Plan, efforts shall be made by the Applicant, to the maximum extent practicable, to shield the SEF

from public view. On-site power lines shall, to the maximum extent practicable, be placed out of sight or underground.

- b. All Areas - Additionally, all ground mounted facilities shall:
  - i. If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent Parcel or the night sky;
  - ii. Not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the facility owner;
  - iii. Be sited behind existing vegetation (which shall be supplemented with landscaping where not adequate to screen the project) or be sited using the natural topography to screen the project; and
  - iv. Be enclosed by a fence, barrier, barbwire, razor wire or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the Parcel(s). Fences or barriers shall incorporate wildlife friendly design. No barrier shall be required where projects employ full-time security guards or video surveillance.

**H. Locations Requiring Discretionary Review** – The following principles shall apply to the Review of Tier 3 locations: No portion of the SEF or their structures shall occupy Protected Lands, unless specifically evaluated under CEQA and permitted. Protected Lands that are potentially incompatible locations, requiring Tier 3 permits, include:

- a. Floodways.
- b. Wetlands, wetland transition areas, riparian corridors, or open water.
- c. In agricultural zones, project sites designated under the Department of Conservation Farmland Mapping and Monitoring Program's Division of Land Resource Protection map as "Prime Farmland", "Farmland of Statewide Importance" and "Unique Farmland".
- d. Lands subject to Williamson Act Contracts that disallow the SEF per principles of compatibility per Government Code 51201 (e), 51238, 51238.1 and 51238.3.
- e. Habitat of special status, threatened, endangered, candidate, or fully protected species, species of special concern, or species protected under the Native Plant Protection Act; Environmentally Sensitive Habitat Areas, important habitat/wildlife linkages or areas of connectivity; and areas covered by Habitat Conservation Plans

or Natural Community Conservation Plans that preclude development.

f. Lands within easements where SEF is a prohibited use.

**I. Abandonment** – A SEF, other than a Tier 1 system, that ceases to produce electricity on a continuous basis for twenty four (24) months shall be considered abandoned unless the Applicant or Landowner demonstrates by substantial evidence satisfactory to the County Planning/Development Services Department that there is no intent to abandon the facility. Applicants and/or Landowners are required to remove all equipment and facilities and restore the site to original condition upon abandonment.

- i. Facilities deemed by the County to be unsafe and facilities erected in violation of this section shall also be subject to this Section. The code enforcement officer or any other employee of the Planning, Building and Public Works Departments shall have the right to request documentation and/or affidavits from the Applicant regarding the system's usage, and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred.
- ii. Upon a determination of abandonment or other violation(s), the County shall send a notice hereof to the Applicant and/or Landowner, indicating that the responsible party shall remove the SEF and all associated facilities, and remediate the site to its approximate original condition within ninety (90) days of notice by the County, unless the County determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the SEF and restoration of the site, the County may advise the Applicant and/or Landowner of such alternative means of resolving the violation(s).
- iii. If the Applicant and/or Landowner do not comply, the County may remove the SEF and restore the site and may thereafter (a) draw funds from any bond, security or financial assurance that may have been provided or (b) initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

## 8. SOLAR ENERGY FACILITIES – TIER 1

**A. General Requirements.** Tier 1 Solar Energy Facilities are ground mounted SEFs that provide energy primarily for on-site use, or rooftop systems that provide energy for any use, that are permitted as Accessory Uses in all zone districts within the County as shown in Table 1. Rooftops or ground mounted systems covering developed parking areas or other hardscape areas are encouraged as preferred locations for a SEF. In addition to the General



Requirements in Section 7, the following standards shall apply to all Tier 1 SEFs, notwithstanding the development standards for the underlying zone:

- i. Tiers Table 1 – Meet the size thresholds for a ministerial permit in Table 1;
- ii. Lot Coverage – Rooftop systems can be any size, ground mounted systems may not exceed ½ an acre;
- iii. Setbacks – Ground mounted structures shall conform to the setbacks as shown in Table 2. For front yard setbacks, the Applicant may show that the SEF otherwise does not impair sight distance for safe access to or from the property or other properties in the vicinity as determined by ministerial zoning clearance; and
- iv. Height Limits – Facilities shall conform to the height limits of Table 3, unless demonstrated by a structural engineer to meet public safety standards.
- v. Floodway - A Tier 1 SEF shall not be located in a Floodway unless evaluated under a discretionary process.

## 9. SOLAR ENERGY FACILITIES – TIER 2

**A. General Requirements.** Tier 2 SEFs provide energy for on-site or off-site use and are permitted as secondary and incidental uses as shown in Table 1. In addition to the General Requirements in Section 7, the following standards shall apply to all Tier 2 SEF, notwithstanding the development standards for the underlying zone:

- i. Tiers Table 1 – Meet the size thresholds for an administrative permit in the applicable zoning district as shown in Table 1;
- ii. Lot Coverage – Allowable lot coverage varies by zoning district as shown in Table 1;
- iii. Setbacks – Ground mounted structures shall conform to the setbacks as shown in Table 2. For front yard setbacks, the Applicant may show that the SEF otherwise does not impair sight distance for safe access to or from the property or other properties in the vicinity as determined by ministerial zoning clearance.
- iv. Height Limits – Facilities shall conform to the height limits of Table 3.
- v. Floodway - A Tier 2 SEF shall not be located in a Floodway unless evaluated under a discretionary process.

**B. Agricultural Resources** – Tier 2 SEF facilities shall be sited to avoid important farmlands as mapped by the state department of conservation including prime, farmlands of statewide importance, unique or locally important farmlands, unless determined by the review authority in consultation with the Agricultural

Commissioner to be chemically or physically impaired, except for an SEF on less than 15% of the Parcel(s).

- i. Williamson Act – Tier 2 SEF are allowed on Williamson Act contracted land only if determined to be a compatible use. The SEF must be listed as a compatible use in the local Williamson Act Rules. The total site area for all compatible uses, including renewable energy facilities, should not be greater than 15 percent of the Parcel(s) or 5 acres, whichever is less, if located on prime land or 30 percent of the Parcel(s) or up to 10 acres if located on non-prime land, unless determined by the legislative body in consultation with the Agricultural Commissioner and/or the appointed advisory body that a larger site area is consistent with the principles of compatibility in conformance with Government Code Section 51238.1.

**C. Biological Resources** – Tier 2 SEF shall not be located on lands which support listed, candidate or other fully protected species, species of species concern, or species protected under the Native Plant Protection Act; Environmentally Sensitive Habitat Areas; or provide important habitat linkage or connectivity on a landscape or regional scale as designated in a General Plan, Area or Specific Plan or as identified in the California Natural Diversity Database. If a proposed Tier 2 SEF project is located on such land, it shall require a minor or conditional use permit as determined by the director.

## 10. SOLAR ENERGY FACILITIES – TIER 3

**A. General Requirements.** Tier 3 facilities are allowed as Secondary or Primary Uses that provide energy for on-site or off-site use as shown in Table 1 subject to a minor use permit, CEQA review and approval by a Zoning Administrator or other similar administrative approval process. In addition to the General Requirements in Section 7, the following standards shall apply to all Tier 3 SEF, notwithstanding the development standards for the underlying zone:

- i. Tiers Table 1 – Meet the size thresholds for a minor use permit in the applicable zoning district as shown in Table 1;
- ii. Lot Coverage – Allowable lot coverage varies by zoning district as shown in Table 1;
- iii. Setbacks – Ground mounted structures shall conform to the setbacks as shown in Table 2 and whenever an SEF abuts an agricultural operation or agricultural zone, an agricultural buffer on the SEF Parcel shall be established at a minimum of 100 feet. The buffer may be reduced if the decision-making body determines that there is a substantial screen such as existing topography or landscaping vegetation and/or an operational management plan and/or an agricultural operation easement is provided;
- iv. Height Limits – Facilities shall conform to the height limits of Table 3;

- B. Agricultural Resources** – The preservation of agricultural activities and agriculturally viable soils is an important consideration. Therefore:
- i. Farmland Protection - Tier 3 SEF projects shall limit the amount of disturbance to Prime Farmland, Farmland of Statewide Importance, Unique Farmland and Locally Important agricultural lands to the highest extent possible and consistent with local agricultural preservation requirements, unless determined by the review authority, in consultation with the Agricultural Commissioner, to be chemically or physically impaired.
  - ii. Grading - Grading within Prime Farmland, Farmland of Statewide Importance, Unique Farmland shall be limited to only that necessary to construct access roads and install equipment, unless the areas are determined to be chemically or physically impaired.
  - iii. Agricultural Preserves – If the facility is located on a site under a Williamson Act contract, the facility must be listed as a compatible use in the local Agricultural Preserve Rules, allowed by the type of contract, and findings must be made by the review authority in consultation with the Agricultural Commissioner and/or the appointed advisory body that the SEF is consistent with the principles of compatibility in conformance with Government Code Section 51238.1 or the contract must be otherwise terminated in accordance with existing law.
- C. Biological Resources** – The protection of high value biological resources is an important consideration. Tier 3 SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by the Native Plant Protection Act; Environmentally Sensitive Habitat Areas; or provide important habitat linkage or connectivity on a landscape or regional scale as designated in a General Plan. If a proposed Tier 3 SEF project is located on such land, it may be directed for hearing to the Planning Commission. Applicants are encouraged to coordinate with permitting agencies such as Dept. of Fish and Game and U.S. Fish and Wildlife Service during design stages.
- D. Soil Stabilization, Erosion Control and Ground Water Management** – For Tier 3 SEFs, the following requirements shall apply:
- i. To the extent feasible and compatible with the climate and pre-project landscaping of the property the site shall be restored with native vegetation. The re-vegetation plans shall be reviewed and approved by the County Planning and Fire Departments. All areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a native shade tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the Planning Department.

- ii. A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff shall be provided subject to approval by the review authority.
- iii. A maintenance plan shall be submitted for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required.
- iv. Prior to issuing a final Building Permit, an as-built grading and drainage plan, prepared by a licensed professional surveyor or other approved qualified professional shall be submitted to the reviewing agency's engineer for review and approval. The plan shall show that the as-built conditions are substantially the same as those shown on the approved grading and drainage plan.

#### **11. SOLAR ENERGY FACILITIES – TIER 4**

- A. Facilities that exceed the size thresholds or do not meet the standards for Tiers 1-3 shall be considered Tier 4 facilities. Tier 4 facilities are allowed as Secondary or Primary Uses that provide energy for on-site or off-site use as shown in Table 1 subject to a Conditional Use Permit, CEQA review, public hearing and approval by the Planning Commission and/or Board of Supervisors. Conditions of approval may be added through the Conditional Use Permit review process.