

**Solar Facility Extracts from the San Bernardino County Development Code
3/5/2018**

84.29.035 Required Findings for Approval of a Commercial Solar Energy Facility

(a) In order to approve a commercial solar energy generation facility, the Planning Commission shall, in addition to making the findings required under Section 85.06.040(a) of the San Bernardino County Development Code, determine that the location of the proposed commercial solar energy facility is appropriate in relation to the desirability and future development of communities, neighborhoods, and rural residential uses, and will not lead to loss of the scenic desert qualities that are key to maintaining a vibrant desert tourist economy by making each of the findings of fact in subdivision (c).

(b) In making these findings of fact, the Planning Commission shall consider: (1) the characteristics of the commercial solar energy facility development site and its physical and environmental setting, as well as the physical layout and design of the proposed development in relation to nearby communities, neighborhoods, and rural residential uses; and (2) the location of other commercial solar energy generation facilities that have been constructed, approved, or applied for in the vicinity, whether within a city or unincorporated territory, or on state or federal land.

(c) The finding of fact shall include the following:

(1) The proposed commercial solar energy generation facility is either

(A) sufficiently separated from existing communities and existing/developing rural residential areas so as to avoid adverse effects, or

(B) of a sufficiently small size, provided with adequate setbacks, designed to be lower profile than otherwise permitted, and sufficiently screened from public view so as to not adversely affect the desirability and future development of communities, neighborhoods, and rural residential use.

(2) Proposed fencing, walls, landscaping, and other perimeter features of the proposed commercial solar energy generation facility will minimize the visual impact of the project so as to blend with and be subordinate to the environment and character of the area where the facility is to be located. (3) The siting and design of the proposed commercial solar energy generation facility will be either:

(A) unobtrusive and not detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways, ¹

or

(B) located in such proximity to already disturbed lands, such as electrical substations, surface mining operations, landfills, wastewater treatment facilities, etc., that it will not further detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways.

(4) The siting and design of project site access and maintenance roads have been incorporated in the visual analysis for the project and shall minimize visibility from public view points while providing needed access to the development site.

(5) The proposed commercial solar energy generation facility will not adversely affect the feasibility of financing infrastructure development in areas planned for infrastructure development or will be located within an area not planned for future infrastructure development (e.g., areas outside of water agency jurisdiction).

(6) The proposed commercial solar energy generation facility will not adversely affect to a significant degree the availability of groundwater supplies for existing communities and existing and developing rural residential areas.

(7) The proposed commercial solar energy generation facility will minimize site grading, excavating, and filling activities by being located on land where the existing grade does not exceed an average of five (5) percent across the developed portion of the project site, and by utilizing construction methods that minimize ground disturbance.

(8) The proposed commercial solar energy generation facility will be located in proximity to existing electrical infrastructure, such as transmission lines, utility corridors, and roads, so that:

(A) minimal ground disturbance and above ground infrastructure will be required to connect to the existing transmission grid, considering the location of the project site and the location and capacity of the transmission grid,

(B) new electrical generation tie lines will be co-located on existing power poles whenever possible, and

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To assist in this determination, photo simulations of the proposed commercial solar energy generation facility as viewed from sensitive receptors (i.e. residences, trails, parks) and public roadways in the area may be required as part of the project's application package.

(C) existing rights-of-way and designated utility corridors will be utilized to the extent practicable.

(9) The proposed commercial solar energy generation facility will be sited so as to avoid or minimize impacts to the habitat of special status species, including threatened, endangered, or rare species, Critical Habitat Areas as designated by the U.S. Fish and Wildlife Service, important habitat/wildlife linkages or areas of connectivity designated by County, state or federal agencies, areas of Habitat Conservation Plans or Natural Community Conservation Plans that discourage or preclude development.

(10) Adequate provision has been made to maintain and promote native vegetation and avoid the proliferation of invasive weeds during and following construction.

(11) The proposed commercial solar energy generation facility will be located so as to avoid or mitigate impacts to significant cultural and historic resources, as well as sacred landscapes.

(12) The proposed commercial solar energy generation facility will be designed in a manner that does not impede flood flows, avoids substantial modification of natural water courses, and will not result in erosion or substantially affect area water quality.

(13) The proposed commercial solar energy generation facility will not be located within a floodway designated by the Federal Emergency Management Agency (FEMA), has been evaluated for flood hazard impacts pursuant to Chapter 82.14 of the Development Code, and will not result in increased flood hazards to upstream or downstream properties.

(14) All on-site solar panels, switches, inverters, transformers, and substations shall be located at least one foot above the base flood elevation as shown on the Flood Insurance Rate Maps.

(15) For development sites proposed on or adjacent to undeveloped alluvial fans, the commercial solar energy generation facility has been designed to avoid potential channel migration zones as demonstrated by a geomorphic assessment of the risk of existing channels migrating into the proposed development footprint, resulting in erosion impacts.

(16) For proposed facilities located on prime agricultural soils or land designated by the California Farmland Mapping and Monitoring Program as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, where use of the land for agricultural purposes is feasible, the proposed commercial solar energy generation facility will not substantially affect the agricultural viability of surrounding lands.



(17) If the proposed site is subject to a Williamson Act (Land Conservation Act) contract, the proposed commercial solar energy generation facility is consistent with the principals of compatibility set forth in California Government Code Section 51238.1.

(18) The proposed commercial solar energy generation facility will not preclude access to significant mineral resources.

(19) The proposed commercial solar energy generation facility will avoid modification of scenic natural formations.

(20) The proposed commercial solar energy generation facility will be designed, constructed, and operated so as to minimize dust generation, including provision of sufficient watering of excavated or graded soil during construction to prevent excessive dust. Watering will occur at a minimum of three (3) times daily on disturbed soil areas with active operations, unless dust is otherwise controlled by rainfall or use of a dust palliative, or other approved dust control measure.

(21) All clearing, grading, earth moving, and excavation activities will cease during period of winds greater than 20 miles per hour (averaged over one hour), or when dust plumes of 20 percent or greater opacity impact public roads, occupied structures, or neighboring property, and in conformance with Air Quality Management District (AQMD) regulations.

(22) For sites where the boundary of a new commercial solar energy generation facility will be located within one-quarter mile of a primary residential structure, an adequate wind barrier will be provided to reduce potentially blowing dust in the direction of the residence during construction and ongoing operation of the commercial solar energy generation facility.

(23) Any unpaved roads and access ways will be treated and maintained with a dust palliative or graveled or treated by another approved dust control method to prevent excessive dust, and paving requirements will be applied pursuant to Chapter 83.09 of the Development Code.

(24) On-site vehicle speed will be limited to 15 miles per hour.

(25) For proposed commercial solar energy generation facilities within two (2) miles of the Joshua Tree National Park boundaries, the location, design, and operation of the proposed commercial solar energy generation facility will not be a predominant visual feature along the main access roads to the park (Park Boulevard and Utah Trail), nor will it substantially impair views from hiking/nature trails, campgrounds, and backcountry camping areas within the National Park.

(26) For proposed facilities within two (2) miles of the Mojave National Preserve boundaries, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, hiking and backcountry camping areas within the National Preserve.

(27) For proposed facilities within two (2) miles of Death Valley National Park boundaries, the location, design, and operation of the proposed commercial

solar energy facility will not be a predominant visual feature of, nor substantially impair views from, hiking and backcountry camping areas within the National Park.

(28) For proposed facilities within two (2) miles of the boundaries of a County, state or federal agency designated wilderness area, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, the designated wilderness area.

(29) For proposed facilities within two (2) miles of the boundaries of any active military base, the location, design, and operation of the proposed commercial solar energy facility will not substantially impair the mission of the facility.

(30) When located within a city's sphere of influence, in addition to other County requirements, the proposed commercial solar energy facility will also be consistent with relevant city zoning requirements that would be applied to similar facilities within the city.

(31) On terms and in an amount acceptable to the Director, adequate surety is provided for reclamation of commercial solar energy generation facility sites should energy production cease for a continuous period of 180 days and/or if the site is abandoned.

Adopted Ordinance 4213 (2014)

84.29.040 Solar Energy Development Standards

(a) Setbacks. Solar energy generating equipment and their mounting structures and devices shall be set back from the property line either pursuant to the standards in the Land Use Zoning District, or 130 percent of the mounted structure height, whichever is greater.

(b) Glare. Solar energy facilities shall be designed to preclude daytime glare on any abutting residential land use zoning district, residential parcel, or public right-of-way.

(c) Night Lighting. Outdoor lighting within a commercial solar energy generation facility shall comply with the provisions of Chapter 83.07 of this Development Code.

(d) Public Safety Services Impact Fees. The developer of an approved commercial solar energy generation facility shall pay a fee on an annual basis according to the following schedule:

Parcel Size Fee Per Acre
0-4.99 acres \$580
5-14.99 acres \$280
15 acres or greater \$157

Alternatively, the developer of an approved commercial solar energy generation

facility shall pay an annual public services impact fee on a per acre basis based on a project-specific study of the project's public safety services impacts, which study shall be paid at the developer's expense, using a consultant approved by the County.

Whether based on the above schedule or on the basis of the project-specific study, the per acre annual impact fee shall be adjusted annually based on the Consumer Price Index for All Urban Consumers (CPI-U) for the Los Angeles-Riverside-Orange County, California area.

(e) Special Use Permit. Prior to the start of construction, the developer of an approved commercial solar energy generation facility shall submit for review, and gain approval for, a Special Use Permit (SUP) from County of San Bernardino Code Enforcement. Thereafter, the SUP shall be renewed annually subject to annual inspections and the payment of fees required in paragraph (d) of this section. The annual SUP inspections shall review and confirm continuing compliance with the performance standards included in the Planning Commission's findings of fact and the listed conditions of approval, including all mitigation measures. This comprehensive compliance review shall include evaluation of the operation and maintenance of the entire commercial solar energy generation facility. Failure to comply shall cause enforcement actions against the operator and owner of the facility. Such actions may cause a hearing or an action that could result in revocation of the facility's conditional use permit and imposition of additional sanctions and/or penalties in accordance with established County of San Bernardino land use enforcement procedures. Any additional inspections that are deemed necessary by the County of San Bernardino Code Enforcement Supervisor shall constitute a special inspection and shall be charged at a rate in accordance with the County Fee Schedule, including travel time, not to exceed three (3) hours per inspection.

(f) Project Notices. Notice of an application for approval of a commercial solar energy generation facility shall be provided to the Municipal Advisory Council (MAC) for the area, any Community Service District or water agency serving the project site, and to all property owners, whether located in a city or in the unincorporated area of the County, within the following parameters:

(1) Area to be Notified: Owners of property located within 1,000 feet of the external boundaries of the parcel of the proposed site, or owners of property located up to 20 separate parcels away but not to exceed one quarter mile (1,320 ft.), whichever is greater.

(2) Notification Timing. Notification shall be accomplished upon acceptance of a new Conditional Use Permit application or a Revision to an Approved Action application for a commercial solar energy generation facility, with additional notice of public hearings provided as required by law to property owners within the Area to be Notified cited above.

Adopted Ordinance 4098 (2010); Amended Ordinance 4156 (2011); Amended Ordinance 4213 (2014)

84.29.050 Special Fencing Standards

Special fencing standards may be applied without a variance in recognition of the capital costs of renewable energy facilities. Total fence heights allowed are inclusive of any height extension devices such as slanted razor-wire panels.

(a) Fencing on street side. Chainlink fencing up to 8 feet in height may be installed no closer than 15 feet from the right-of-way on streetside boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property, and may not extend beyond the property boundary to overhang the right-of-way.

(b) Fencing on interior boundaries. Chainlink fencing up to 8 feet in height may be installed along the property line on interior (non-streetside) boundaries. Security devices such as razor-wire height extensions may only be directed inward to the property, and may not extend beyond the property boundary to overhang any other property.

(c) Electric Fencing. Electric fencing is not allowed.

Adopted Ordinance 4098 (2010)

84.29.060 Additional Wind and Solar Energy Development Standards.

(a) Facilities adjoining agricultural operations. Supporting off-site facilities, such as transmission lines, shall be designed and sited in a manner that will allow for continued use of adjoining agricultural operations.

(b) Large bird protection. Transmission lines and all electrical components shall be designed, installed, and maintained to reduce the likelihood of large bird electrocutions and collisions.

Adopted Ordinance 4098 (2010); Amended Ordinance 4156 (2011)

84.29.070 Decommissioning Requirements

(a) Closure Plan. Following the operational life of the project, the project owner shall perform site closure activities to meet federal, state and local requirements for the rehabilitation and revegetation of the project site after decommissioning. The project owner shall prepare a Closure, Revegetation, and Rehabilitation Plan and submit it to the Planning Division for review and approval prior to building permit issuance. Under this plan, all aboveground structures and facilities shall be removed to a depth of three feet below grade, and removed offsite for recycling or disposal. Concrete, piping, and other materials existing below three feet in depth may be left in place. Areas that had been graded shall be restored to original contours unless it can be shown that there is a community benefit for the grading to remain as altered. Succulent plant species native to the area shall be salvaged prior to construction, transplanted into windrows, and maintained for later transplanting following decommissioning. Shrubs and other plant species shall be revegetated by the collection of seeds, and re-seeding following decommissioning.

(b) Compliance with other requirements. Project decommissioning shall be performed in accordance with all other plans, permits and mitigation measures that would assure the project conforms to applicable requirements and would avoid significant adverse

impacts. These plans include the following as applicable:

- Water Quality Management Plan
- Erosion and Sediment Control Plan
- Drainage Report
- Notice of Intent and Stormwater Pollution Prevention Plan
- Air Quality Permits
- Biological Resources Report
- Incidental Take Permit, Section 2081 of the Fish and Game Code
- Cultural Records Report

The County may require a Phase 1 Environmental Site Assessment be performed at the end of decommissioning to verify site conditions.

Adopted Ordinance 4098 (2010); Amended Ordinance 4156 (2011)