

1 DRAFT 2-1B <August 03, 2011>

2 CCPDA Working Group Meeting

3 California County Planning Directors Association
4 (CCPDA)
5 MODEL ORDINANCE FOR California COUNTIES
6

7 AN ORDINANCE AMENDING ORDINANCE NO. _____
8 OF THE COUNTY CODE OF (_____) TO PROVIDE
9 FOR THE REGULATION OF SOLAR ENERGY
10 FACILITIES

11 Best Management Practices

12 Guidance Document information

13 1. PURPOSE

14 The purpose of the Ordinance is to provide for the construction,
15 installation, operation and decommissioning of a Solar Energy Facility (SEF) in
16 the County of (_____), subject to reasonable conditions that will protect
17 the public health, safety and welfare.

18 2. DEFINITIONS

- 19 A. "Applicant" is the Landowner or Developer, including their heirs,
20 successors and assigns, who has filed an application for development
21 of a Solar Energy Facility under this Ordinance.
- 22 B. "Building Permit Fees" means the calculation by each County that
23 recovers the cost of building permit plan check and inspection, unless
24 the County is able to fund these permit types with other funding
25 sources, which may result in a lesser fee.
- 26 C. "Facility Owner" means the person or entity having an equity interest in
27 the Solar Electric System, including such person's heirs, successors
28 and assigns.
- 29 D. "Floating Solar Energy Facility" means a system where some or all of
30 the parts of the Solar Electric System are contained on structures in or
31 over water. These will be processed per the various Tiers below
32 dependent on their number of acres they cover.
- 33 E. "Operator" means the entity responsible for the day-to-day operation
34 and maintenance of the Solar Energy Facility

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- F. “Conjunctive Use” means a portion or all of a parcel that is utilized for another purpose but may be available for the installation of some or all of the components of a SEF, such as an irrigation pond, floating solar energy facility (or similar), a detention basin for stormwater management or other similarly developed portions of a parcel.
- G. “Protected Lands” means for the purpose of this chapter only, lands containing resources that are protected or regulated by established regulatory standards of state, federal and local agencies, or conservation easements or other contractual instruments in such a way that prohibits or limits development of those lands.
- H. Review Authority means applicable county or city land use decision making body as determined by local ordinance and appeal procedures.
- I. “Solar Electric System (SES)” means the components and subsystems that, in combination, convert solar energy into electric energy suitable for use, and may include other appurtenant structures and facilities. The term includes but is not limited to photovoltaic power systems. Do not include solar thermal in the SES. Need to make sure to include substations...deal with this in the height restrictions section...distribution equipment shall follow utility requirements.
- J. “Solar Energy Facilities Combining Zone” means a geographic area within the County where the County has determined the land is suitable for a variety of types/sizes of Solar Energy Facilities through a separate planning process.
- K. “Solar Energy Facility – Tier 1” means a roof mounted Solar Electric System or parking lot (or similar accessory structure) or a ground mounted Solar Electric System up to one half (1/2) acre in size with some limitations. Roof mounted or parking lot covered SEF are allowed on all structures in all zones.
- L. “Solar Energy Facility – Tier 2” is a Solar Electric System installed with the size limits and other limitations as follows:
 - i. Tier 2A - Up to 15% of the parcel(s) or five (5) acres in size, whichever is less when on Williamson Act contracted land, Prime Farmland, Farmland of Statewide Importance or Unique Farmland in an Ag Zone. Minimum parcel size is 10 acres.
 - ii. Tier 2B – Up to 30% of the parcel(s) or 10 acres in size, whichever is less when on Williamson Act contracted land but NOT Prime Farmland, Farmland of Statewide Importance or Unique Farmland in an Ag Zone. Minimum parcel size is 10 acres. Must be consistent with local Williamson Act Rules.
 - iii. Tier 2C – Up to 15% of the parcel(s) or five (5) acres in size, whichever is less when not on Williamson Act contracted land, but is on Prime Farmland, Farmland of Statewide Importance or

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- 79 Unique Farmland in an Ag Zone. Minimum parcel size is 10
- 80 acres.
- 81 iv. Tier 2D - Up to fifteen (15) acres in size when designated
- 82 Industrial, Commercial or Public Zone.
- 83 v. Tier 2E – 30% of the parcel(s) or seven (7) acres, whichever is
- 84 less, when located in a Rural Residential or Foothill Residential
- 85 Zone.

86 **M.** “Solar Energy Facility – Tier 3” is a Solar Electric System that may be
 87 the primary use of the parcel(s), with most or all energy delivered off-
 88 site. It includes

- 89 i. Tier 3A - Up to 30% of the parcel(s) or ten (10) acres in size,
- 90 whichever is less when on Williamson Act contracted land,
- 91 Prime Farmland, Farmland of Statewide Importance or Unique
- 92 Farmland in an Ag Zone. Minimum parcel size is 10 acres.
- 93 ii. Tier 3B – Up to 30% of the parcel(s) or 20 acres in size,
- 94 whichever is less when on Williamson Act contracted land but
- 95 NOT Prime Farmland, Farmland of Statewide Importance or
- 96 Unique Farmland in an Ag Zone. Must be consistent with local
- 97 Williamson Act Rules.
- 98 iii. Tier 3C – Up to 30% of the parcel(s) or ten (10) acres in size,
- 99 whichever is less when not on Williamson Act contracted land,
- 100 but is on Prime Farmland, Farmland of Statewide Importance or
- 101 Unique Farmland in an Ag Zone.
- 102 iv. Tier 3D – Up to twenty (20) acres in size when not on
- 103 Williamson Act contracted land or on Prime Farmland, Farmland
- 104 of Statewide Importance or Unique Farmland in an Ag Zone.
- 105 v. Tier 3E - Up to thirty (30) acres in size when designated
- 106 Industrial, Commercial or Public Zone.
- 107 vi. Tier 3E – 30% of the parcel(s) or seven (15) acres, whichever is
- 108 less, when located in a Rural Residential or Foothill Residential
- 109 Zone.

110 **N.** “Solar Energy Facility – Tier 4 may be the primary use of the parcel(s),
 111 with most or all energy delivered off-site; it includes:

112 3. Anything over Tier 3 would have information provided via the Guidance
 113 Document. Tier 4 will describe suggestions and information to assist
 114 counties.

115 i.
 116 **B.** “Uses Allowed” means one of the following:

- 117 i. Direct Use - designed and installed for any legally established
- 118 use of the property

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Deleted: <#>Tier 4A – Greater than 30% of the parcel(s) size when on Williamson Act contracted land, Prime Farmland, Farmland of Statewide Importance or Unique Farmland in an Ag Zone. Minimum parcel size is 10 acres.¶

<#>Tier 4B – Greater than 50% of the parcel(s) size when on Williamson Act contracted land but NOT Prime Farmland, Farmland of Statewide Importance or Unique Farmland in an Ag Zone. Must be consistent with local Williamson Act Rules.¶

<#>Tier 4C – Greater than 50% of the parcel(s) size when not on Williamson Act contracted land, but is on Prime Farmland, Farmland of Statewide Importance or Unique Farmland in an Ag Zone. ¶

<#>Tier 4D – Greater than 50% of the parcel(s) size when not on Williamson Act contracted land or on Prime Farmland, Farmland of Statewide Importance or Unique Farmland in an Ag Zone.¶

<#>Tier 4E – Greater than thirty (30) acres or 3 megawatts in size when designated Industrial, Commercial or Public Zone.¶

<#>Tier 4F – Greater than 50% of the parcel(s) size when located in a Rural Residential or Foothill Residential Zone. ¶

Other SEF’s which do not meet the definition of Tier 1, 2, or 3 SEFs, or the requirements thereof.

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- 119 ii. Primary Use - primary use of the property over 50% of the
- 120 parcel
- 121 iii. Secondary Incidental Use - up to 125% of on-site energy
- 122 demand and <50% of building site area or 15-25% of parcel
- 123 iv. Secondary Use - not the primary use of the property < 50% of
- 124 the parcel.
- 125 **C.** "Williamson Act Contracted Parcel" means a parcel of land that is in
- 126 contract with a local authority for the preservation of agricultural and
- 127 open spaces land per the Land Conservation Act of 1965 or similar
- 128 local agricultural land preservation programs.
- 129

130 **3. GENERAL REQUIREMENTS (apply to all tiers unless otherwise**

131 **noted)**

132

133 **A. Building permits are required.** Nothing in this chapter modifies the

134 minimum building standards required to construct SEFs, consistent

135 with applicable building and fire codes. All SEFs shall comply with the

136 most recently adopted Building Code as determined by the Building

137 Official and Fire Code as determined by the Fire Official.

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139 **B. Right To Farm.** If the SEF is located on or adjacent to an agricultural

140 zone, the applicant must acknowledge the County's Right to Farm

141 Ordinance and shall be required to record a Right to Farm Notice prior

142 to issuance of any Building Permits. This shall be included as a

143 recommended condition of approval of the land use entitlement.

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145 **C. Off-Site Facilities** – When the SEF is located on more than one

146 parcel, there shall be proper easement agreement, Non-Disturbance

147 Agreement or other approved methods for the notification of all

148 impacted parties.

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150 **D. Parcel Line Setbacks (Each County will need to establish their**

151 **own. The following examples are intended to assist in this effort).**

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153 **Table 3-1 – Parcel Line Setbacks – to the closest part of the SEF. Fencing,**

154 **roads and landscaping may occur within the setback.**

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| SEF Category | Tier 1 | Tier 2 | Tier 3 | Tier 4 |
|---------------------|--------|--------|--------|--------|
| | | | | |
| Parcel Line Setback | | | | |

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| | | | | | | | | |
|----------------------------------|------------------------------|------------------------------|------------------------------|------|------|------------------------------|------|------|
| - Ag Zone | Per Zoning for that District | Per Zoning for that District | Front | Rear | Side | Front | Rear | Side |
| | | | 30' | 30' | 30' | 30' | 30' | 30' |
| | | | * | | | * | | |
| - Commercial | Per Zoning for that District | Per Zoning for that District | Front | Rear | Side | Front | Rear | Side |
| | | | 30' | 30' | 30' | 30' | 30' | 30' |
| | | | * | | | * | | |
| - Industrial | Per Zoning for that District | Per Zoning for that District | Front | Rear | Side | Front | Rear | Side |
| | | | 30' | 30' | 30' | 30' | 30' | 30' |
| | | | * | | | * | | |
| - Rural Residential (> 10 acres) | Per Zoning for that District | Per Zoning for that District | Front | Rear | Side | Front | Rear | Side |
| | | | 100' | 100' | 100' | 100' | 100' | 100' |
| | | | * | | | * | | |
| - Residential (<10 acre) | Per Zoning for that District | Per Zoning for that District | Per Zoning for that District | | | Per Zoning for that District | | |

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* Agricultural Buffer: This applies only to Tiers 3 & 4. 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.

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E. Height Limits (Each County will need to establish their own. The following examples are intended to assist in this effort).

Table 3-2 – 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.

| SEF Category | Tier 1 | Tier 2 | Tier 3 | Tier 4 |
|--------------------------------|---|---|---|---|
| - Ag or Rural Residential Zone | Roof – 2’ above roof 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’ | Roof – 2’ above roof surface and may project above the height limit Ground – 15’ |
| - 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’ | Roof – 4’ above roof surface and may project above the height limit Ground – 15’ |
| - 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’ | Roof – 2’ above roof surface and may project above the height limit Ground – 15’ |

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F. Visibility. For SEF in Scenic areas, as designated in the General Plan, for Tiers 3-4, efforts shall be made by the owner/installer of the SEF, to the maximum extent practicable, be shielded from the public view. On-site transmission and power lines shall, to the maximum extent practicable, be placed out of sight or underground. Additionally, ground mounted facilities shall:

- i. If lighting is required, it shall be motion sensed, fully shielded and downcast type where the light does not spill onto the adjacent parcel or the night sky;
- ii. Not display off-site 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) or be sited using the natural topography to screen the project;

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- iv. Shall be enclosed by a fence, barrier or other appropriate means to prevent or restrict unauthorized persons or vehicles from entering the parcel. Fences or barriers shall incorporate wildlife friendly design;
- v. Comply with the setback requirements of Tables 5-1&2.

G. [SUGGESTION: Remove G and put this information into an introductory cover letter:...explore the CEQA exceptions language] Locations Requiring Discretionary Review. Where possible, the following principles shall apply to the Review of Tier 3 and Tier 4 locations: include:

- i. Floodways.
- ii. Wetlands, wetland transition areas, riparian corridors, or open water.
- iii. In agricultural designated zones, project sites designated under the Farmland Mapping and Monitoring Program DOC, Division of Land Resource Protection map, as “Prime Farmland”, “Farmland of Statewide Importance” and “Unique Farmland”..
- iv. Lands subject to Williamson Act Contracts that disallow the SEF per principles of compatibility per Government Code 51201 (e) and 51238 and 51238.1 and 51238.3.
- v. Habitat of special status species, including the habitat of threatened, endangered, or rare species, Ecologically Sensitive Areas, important habitat/wildlife linkages or areas of connectivity, and areas of Habitat Conservation Plans or Natural Community Conservation Plans that preclude development.
- vi. Lands subject to Easements unless the SEF is an allowed use.

Deleted: Potentially Incompatible

Deleted: No portion of the SEF or their structures shall occupy protected lands, unless specifically evaluated under CEQA and permitted as a Tier 3 or Tier 4 facility. Potentially incompatible locations, requiring Tier 3 and Tier 4 permits,

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H. Decommissioning. [GUIDANCE DOCUMENT INFORMATION] This will be included in the Guidance Document intended to assist Counties... Should have a plan submitted as a part of the approval process. The Reclamation Plan should include:

- a. A plan and timeframe for removal of all equipment and components when they are no longer in use
- b. Removal of graveled areas and access roads and restoration of the surface grade and placement of topsoil after removal of all structures and equipment including grading, revegetation and erosion control plans to return the site to an appropriate end use.

Deleted: At the time of Use Permit approval for a Tier 3 or Tier 4 SEF, a Reclamation Plan shall be required subject for review and approval of the decision-making authority.

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- 226 c. Revegetation of disturbed areas with native seed mixes and plant
227 species suitable to the area.
- 228 d. A cost estimate for all reclamation activities shall be provided by a
229 qualified person.
- 230 e. The Reclamation Plan shall also include a statement signed by the
231 owner/operator that they take full responsibility for reclaiming the
232 site in accordance with the Reclamation Plan upon cessation of
233 use.

234 Decommissioning and removal of equipment and all
235 appurtenant facilities shall commence as soon as the use
236 has ceased or is no longer operating but no later than 90
237 days after the SEF use ceases. The timeframe for
238 completion of removal/reclamation shall be as described in
239 the approved Reclamation Plan.

240 **I. Financial Assurance.** [GUIDANCE DOCUMENT INFORMATION:
241 WE NEED TO ADDRESS THIS TOOL, BUT THE SENSE OF THE
242 WORKING GROUP IS THAT WE WILL NOT NEED TO SUGGEST
243 THAT THIS SHOULD BE REQUIRED, BUT MAY BE CONSIDERED
244 ON A CASE BY CASE BASIS: Since there is value to the
245 product/materials, there are struggles to execute various
246 Financial Assurances, it is likely that the site will convert to a
247 future energy facility, are they required for other types of
248 industries in a county?, etc..]Prior to the issuance of a Building
249 Permit for construction of the Tier 3 and Tier 4 SEF, a Financial
250 Assurance or security in a form and amount acceptable to the County
251 shall be required to secure the expense of dismantling and removing
252 the SEF and reclaiming the site. The County shall draw upon this
253 Financial Assurance, or enforce the guarantee, in the event the
254 responsible party fails to act in accordance with the provisions of this
255 section within ninety (90) days of termination of operations, or upon
256 determination by the County that the SEF is unsafe, has been
257 abandoned, or is in violation of this chapter. The Financial Assurance
258 or guarantee shall remain in effect until the SEF is removed.
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260 **J. Abandonment.**

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262 (a) A SEF, other than a Tier 1 system, that ceases to produce
263 electricity on a continuous basis for twelve (12) months shall be
264 considered abandoned. Parcel owners are required to complete the
265 decommissioning per the requirements in (8H) above.

266 (b) Facilities deemed by the County to be unsafe and facilities
267 erected in violation of this section shall also be subject to this
268 Section. The code enforcement officer or any other employee of the
269 Planning, Building and Public Works Departments shall have the

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270 right to request documentation and/or affidavits from the system
271 owner/operator regarding the system's usage, and shall make a
272 determination as to the date of abandonment or the date on which
273 other violation(s) occurred.

274 (c) Upon a determination of abandonment or other violation(s), the
275 County shall send a notice hereof to the owner/operator, indicating
276 that the responsible party shall remove the SEF and all associated
277 facilities, and remediate the site to its approximate original condition
278 within ninety (90) days of notice by the County, unless the County
279 determines that the facilities must be removed in a shorter period to
280 protect public safety. Alternatively, if the violation(s) can be
281 addressed by means short of removing the SEF and restoring of
282 the site, the County may advise the owner/operator of such
283 alternative means of resolving the violation(s).

284 (d) In the event that the responsible parties have failed to remove
285 the SEF and/or restore the facility site or otherwise resolve the
286 violation(s) within the specified time period, the County may remove
287 the SEF and restore the site and may thereafter initiate judicial
288 proceedings or take any other steps authorized by law against the
289 responsible parties to recover costs associated with the removal of
290 structures deemed a public hazard including but not limited to
291 recording a lien against the property.

292

293 4. APPLICABILITY

294 A. This Ordinance applies to any Solar Energy Facilities (SEF)
295 proposed to be constructed or permitted after the effective date of
296 the Ordinance.

297 B. A SEF legally established or permitted prior to the effective date of
298 this Ordinance shall not be required to meet the requirements of
299 this Ordinance, however:

300 i. Physical modification or alteration to an existing SEF that
301 materially alters the size, type or components of the SEF
302 shall require a permit under this Ordinance. Only the
303 modification or alteration is subject to this Ordinance;

304 ii. Routine operation and maintenance or like-kind
305 replacements do not require a permit.
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307 5. PERMIT REQUIREMENTS – Permit requirements for all SEF shall be as 308 shown in Table 5-1...

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311 **NOTE TO READER:** One of the following Tables will be used but they are not
312 currently finalized...the goal is to create a simple table for a member of the public
313 and staff to read to clearly understand 'at a glance', what category their proposed
314 SEF is within...THIS IS STILL UNDER DEVELOPMENT ...

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CCPDA Model SEF Ordinance - Solar Energy Facility Tiers – 2011-07-23 Edited at Working Group Meeting on 07-20-2011 DRAFT #2 – Clean Copy

| Tiers | Type of Permit or Entitlement – Ministerial, Admin, Minor Use Permit or Use Permit | Max Acres of ground mounted SEF | Williamson Act contracted land | Minimum Parcel Size | Prime Farm Land (PFL) or Farm Land of Statewide Importance (FLSI) or Unique Farm Land (UFL) | CEQA review required | PFL or FLSI or UFL designation that IS physically or chemically impaired (as determined by the Agricultural Commissioner or designated body) or non productive OR Non PFL/FLSI/UFL | Primary Use, Accessory Use or Conditional Use | Agriculture Zone | Industrial, Commercial, Public Zones | Rural Residential or Foothill Residential Zone |
|---------|--|---|--------------------------------|---------------------|---|----------------------|--|---|------------------|--------------------------------------|--|
| Tier 1A | Building Permit | Roof Mounted | Yes or No | All parcel sizes | Yes | No | Yes | Accessory | Yes | Yes | Yes |
| Tier 1B | Building Permit | < 50% of the building envelope or 15-25% of the parcel if there is no lot coverage standard up to a maximum of ½ acre | Yes or No | | Yes | No | Yes | Accessory | Yes | Yes | Yes |

| Tiers | Type of Permit or Entitlement – Ministerial, Admin, Minor Use Permit or Use Permit | Max Acres of ground mounted SEF | Williamson Act contracted land | Minimum Parcel Size | Prime Farm Land (PFL) or Farm Land of Statewide Importance (FLSI) or Unique Farm Land (UFL) | CEQA review required | PFL or FLSI or UFL designation that IS physically or chemically impaired (as determined by the Agricultural Commissioner or designated body) or non productive OR Non PFL/FLSI/UFL | Primary Use, Accessory Use or Conditional Use | Agriculture Zone | Industrial, Commercial, Public Zones | Rural Residential or Foothill Residential Zone |
|---------|--|--|---|---------------------|---|----------------------|--|---|------------------|--------------------------------------|--|
| Tier 2A | Admin | 15% of the parcel/parcels or 5 acres, whichever is less | Yes, if the Accessory Use is primarily related to Ag Use and consistent with local Ag Rules | 10 acres | Yes | No | No | Accessory Use | Yes | No | No |
| Tier 2B | Admin | 30% of the parcel/parcels or 10 acres, whichever is less | Yes, if the Accessory Use is primarily related to Ag Use and consistent with local Ag Rules | | No | No | Yes | Accessory Use | Yes | No | No |
| Tier 2C | Admin | 15% of the parcel/parcels or 5 acres, whichever is less | No | | Yes | No | No | Accessory Use | Yes | No | No |
| Tier 2D | Admin | 15 acres | No | | No | No | N/A | Accessory Use | No | Yes | No |
| Tier 2E | Admin | 30% of the parcel/parcels or 7 acres, whichever is less | No | | No | No | N/A | Accessory Use | No | No | Yes |

| Tiers | Type of Permit or Entitlement – Ministerial, Admin, Minor Use Permit or Use Permit | Max Acres of ground mounted SEF | Williamson Act contracted land | Minimum Parcel Size | Prime Farm Land (PFL) or Farm Land of Statewide Importance (FLSI) or Unique Farm Land (UFL) | CEQA review required | PFL or FLSI or UFL designation that IS physically or chemically impaired (as determined by the Agricultural Commissioner or designated body) or non productive OR Non PFL/FLSI/UFL | Primary Use, Accessory Use or Conditional Use | Agriculture Zone | Industrial, Commercial, Public Zones | Rural Residential or Foothill Residential Zone |
|---------|--|--|---|---------------------|---|----------------------|--|---|------------------|--------------------------------------|--|
| Tier 3A | Minor UP | 30% of the parcel/parcels or 10 acres, whichever is less | Yes (must be deemed to be compatible or terminated) | 10 acres | Yes | Yes | No | Conditional Use | Yes | No | No |
| Tier 3B | Minor UP | 30% of the parcel/parcels or 20 acres, whichever is less | Yes (must be deemed to be compatible or terminated) | | No | Yes | Yes | Conditional Use | Yes | No | No |
| Tier 3C | Minor UP | 30% of the parcel/parcels or 10 acres, whichever is less | No | | Yes | Yes | No | Conditional Use | Yes | No | No |
| Tier 3D | Minor UP | Up to 20 acres | No | | No | Yes | Yes | Conditional Use | Yes | No | No |
| Tier 3E | Minor UP | 30 acres | No | | No | Yes | N/A | Conditional Use | No | Yes | No |
| Tier 3F | Minor UP | 30% of the parcel/parcels or 15 acres, whichever is less | No | | No | Yes | N/A | Conditional Use | No | No | Yes |

| Tiers | Type of Permit or Entitlement – Ministerial, Admin, Minor Use Permit or Use Permit | Max Acres of ground mounted SEF | Williamson Act contracted land | Minimum Parcel Size | Prime Farm Land (PFL) or Farm Land of Statewide Importance (FLSI) or Unique Farm Land (UFL) | CEQA review required | PFL or FLSI or UFL designation that IS physically or chemically impaired (as determined by the Agricultural Commissioner or designated body) or non productive OR Non PFL/FLSI/UFL | Primary Use, Accessory Use or Conditional Use | Agriculture Zone | Industrial, Commercial, Public Zones | Rural Residential or Foothill Residential Zone |
|---------|--|---------------------------------|---|---------------------|---|----------------------|--|---|------------------|--------------------------------------|--|
| Tier 4A | Use Permit | > 30% of the parcel/parcels | Yes (must be deemed to be compatible or terminated) | 10 acres | Yes | Yes | No | Conditional Use | Yes | No | No |
| Tier 4B | Use Permit | > 50% of the parcel/parcels | Yes (must be deemed to be compatible or terminated) | | No | Yes | Yes | Conditional Use | Yes | No | No |
| Tier 4C | Use Permit | > 50% of the parcel/parcels | No | | Yes | Yes | No | Conditional Use | Yes | No | No |
| Tier 4D | Use Permit | > 50% of the parcel/parcels | No | | No | Yes | Yes | Conditional Use | Yes | No | No |
| Tier 4E | Use Permit | > 30 acres (3 megawatts) | No | | No | Yes | N/A | Conditional Use | No | Yes | No |
| Tier 4F | Use Permit | > 30% of the parcel/parcels | No | | No | Yes | N/A | Conditional Use | No | No | Yes |

For any comments or questions about this Model SEF Tiers Table, please email Tim Snellings, Butte County Director of Development Services at tsnellings@buttecounty.net.

| LAND USE/ZONING DISTRICT | Land Intensive Ag - Prime, Statewide, 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 | Agriculture & Rural Residential 10+ ac | Rural Residential 5 - 10 ac | Rural Residential < 5 ac | Urban Residential | STANDARDS OR SPECIFIC USE REGULATIONS |
|--|---|--|------------------|-------------------|-------------------------------|-------------------|--------------------------------|-------------------------------------|--------------------|-------------------------|--|-----------------------------|--------------------------|-------------------|--|
| | | | | | | | | | | | | | | | |
| UTILITY & RESOURCE-BASED USES | | | | | | | | | | | | | | | |
| Solar Energy Facilities (PV) | | | | | | | | | | | | | | | |
| Accessory/Direct Use on structures | P | P | P | P | P | P | P | P | P | P | P | P | P | P | See Tier 1 Health and Safety Standards; setbacks and |
| Accessory/Direct Use ground mounted up to .5 ac | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Secondary/Incidental Use <15% of parcel up to 5 ac | AP ¹ | AP ¹ | AP ¹ | AP | AP | AP | AP | AP | AP | — | AP | AP | AP | — | |
| < 30% of parcel up to 7 ac | AP ¹ | AP ¹ | AP ¹ | AP | AP | AP | AP | AP | AP | — | AP | AP | AP | — | See Tier 2 |
| < 30% of parcel up to 10 ac | MUP ^{1,2} | AP ¹ | AP ¹ | AP | AP | AP | AP | MUP | — | — | MUP | — | — | — | |
| < 30% of parcel up to 15 ac | MUP ² | AP ¹ | AP ¹ | AP | AP | AP | AP | CUP | — | — | MUP | — | — | — | See Tier 3 |
| < 30% of parcel up to 20 ac | MUP ² | MUP ¹ | AP ¹ | AP | AP | AP | MUP | — | — | — | CUP | — | — | — | |
| Primary Use | | | | | | | | | | | | | | | |
| > 30% - < 50% of parcel | CUP ^{1,2} | MUP ¹ | AP ¹ | MUP | AP | MUP | MUP | — | — | — | CUP | — | — | — | |
| > 50% of parcel | CUP ² | CUP ¹ | | | | CUP | | | | | | | | | |
| up to 20 acres | — | CUP ¹ | MUP ¹ | CUP | AP | CUP | MUP | — | — | — | — | — | — | — | see Tier 4 |
| up to 30 acres | — | CUP ¹ | CUP ¹ | CUP | MUP | — | MUP | — | — | — | — | — | — | — | |
| > 30 acres | — | CUP ¹ | CUP ¹ | — | CUP | — | CUP | — | — | — | — | — | — | — | |

| TYPE OF PERMIT REQUIRED | |
|-------------------------|---|
| P | Permitted use - Ministerial; CEQA exempt; Building Permit Only |
| AP | Administrative Permit - Ministerial w/standards; CEQA exempt; no added conditions |
| MUP | Minor Use Permit - Zoning Administrator or staff approval; noticed hearing; maybe CEQA exempt; can add conditions |
| CUP | Use Permit - noticed hearing before Planning Commission; CEQA; can add conditions |
| — | Use prohibited |

| DEFINITION OF TERMS |
|--|
| Direct Use - designed and installed for any legally established use of the property |
| Secondary Incidental Use - up to 125% of on-site energy demand and <50% of building site area or 15-25% of parcel |
| Secondary Use - not the primary use of the property < 50% of the parcel |
| Primary Use - primary use of the property over 50% of the parcel |

Notes: 1. If under Land Conservation (WA) contract, the facility must be listed as compatible use in the local Ag Preserve Rules; allowed by the type of contract; and shall be no more that 15% of the parcel or 5 acres whichever is less, unless determined by the Board of Supervisors that a larger percentage is compatible.

2. Allowed if not under WA or site is physically or chemically impaired as determined by the Ag Commissioner (or designated body)

Highlighted indicates the information from the "Tiers" table. Other columns are added but not categorized in the Tiers table

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SOLAR ELECTRIC FACILITY
MODEL ORDINANCE

| LAND USE/ZONING DISTRICT | Important Farmlands - Prime, Statewide, Unique or Locally Important | 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 | Rural Residential 10+ ac | Rural Residential < 10 ac | Urban Residential | STANDARDS OR SPECIFIC USE REGULATIONS |
|--|---|--|------------------|-------------------|-------------------------------|-------------------|--------------------------------|-------------------------------------|--------------------|-------------------------|--------------------------|---------------------------|-------------------|---|
| UTILITY & RESOURCE-BASED USES | | | | | | | | | | | | | | |
| Solar Energy Facilities (SEF) | | | | | | | | | | | | | | |
| Accessory/Direct Use on structures or ground mounted | P | P | P | P | P | P | P | P | P | P | P | P | P | See Tier 1 Health and Safety Standards; |
| Secondary Use | | | | | | | | | | | | | | See Tier 2 |
| < 30% of parcel up to 7.5 ac | AP ¹ | AP ¹ | AP ¹ | AP | AP | AP | AP | AP | AP | MUP | MUP | MUP | MUP | |
| < 30% of parcel up to 15 ac | MUP ^{1,2} | AP ¹ | AP ¹ | MUP | AP | AP | AP | MUP | MUP | CUP | CUP | — | — | |
| < 50% of parcel up to 30 ac | CUP ^{1,2} | MUP ^{1,2} | AP ¹ | CUP | AP | AP | MUP | CUP | CUP | — | — | — | — | See Tier 3 - Reclamation Plan Required |
| Primary Use | | | | | | | | | | | | | | see Tier 4 - Financial Assurance required |
| > 50% of parcel up to 30 ac | — | CUP ^{1,2} | CUP ¹ | — | MUP | MUP | CUP | — | — | — | — | — | — | |
| > 50% of parcel or over 30 acres | — | CUP ^{1,2} | CUP ¹ | — | CUP | CUP | CUP | — | — | — | — | — | — | |

| TYPE OF PERMIT REQUIRED | |
|-------------------------|---|
| P | Permitted use - Ministerial; CEQA exempt; Building Permit Only |
| AP | Administrative Permit - Ministerial w/standards; CEQA exempt; no added conditions |
| MUP | Minor Use Permit - Zoning Administrator or staff approval; noticed hearing; maybe CEQA exempt; can add conditions |
| CUP | Use Permit - noticed hearing before Planning Commission; CEQA; can add conditions |
| — | Use prohibited |

| DEFINITION OF TERMS |
|--|
| Direct Use - designed and installed for any legally established use of the property |
| Secondary Incidental Use - <50% of building site area or 15-30% of parcel |
| Secondary Use - not the primary use of the property < 50% of the parcel |
| Primary Use - primary use of the property over 50% of the parcel |

- Notes:**
1. If under Land Conservation (WA) contract, the facility must be listed as compatible use in the local Ag Preserve Rules; allowed by the type of contract; and shall be no more that 15% of the parcel or 5 acres whichever is less, unless determined by the Review Authority, in consultation with the Agricultural Commissioner (and designated advisory body where applicable) that a larger percentage is compatible.
 2. Includes important farmlands that are physically or chemically impaired as determined by the Review Authority, in consultation with the Agricultural Commissioner (and designated advisory body where applicable) and
 3. Roof mounted systems on conforming structures are exempt facilities not limited by this ordinance.

316 **SOLAR ENERGY FACILITIES – TIER 1 (Exempt Facilities, Building Permit**
317 **Only Required)**

318 A. Tier 1 Solar Energy Facilities and Solar Hot Water systems that
319 provide energy for on-site use are permitted as accessory uses in all
320 zone districts within the County as shown in Table 5-1 provided they
321 meet the following health and safety criteria:

322 i. The photovoltaic solar panels and all accessory equipment
323 shall comply with the most recently adopted Building Code,
324 as determined by the Building Official.

325 ii. Ground mounted systems located within developed parking
326 areas or other hardscape area in compliance.

327 iii. Height Limits. Facilities shall conform to the height limits of
328 Table 3-2.

329 B. Ground mounted systems designed to serve primarily on-site use(s)
330 that are up to ½ acre in size that meet the following health and safety
331 standards:

332 i. Not exceeding 15-feet in height, unless demonstrated by a
333 structural engineer to meet public safety standards;

334 ii. Setbacks. Ground mounted structures shall conform to the
335 setbacks as shown in Table 3-1.

336 iii. Complies with required front yard setbacks, or otherwise
337 does not impair sight distance for safe access to or from the
338 property or other properties in the vicinity as determined by
339 zoning clearance;

340 iv. On sites less than 1 acre, the facility shall meet fire safe
341 standards for a minimum setback of 10-feet from property
342 line. If sited on over 1 acre a 30-foot setback from property
343 lines for emergency access and defensible space around the
344 facility shall be provided;

345 v. The facility shall not be located over a septic system or
346 leachfield area or identified reserve area unless approved by
347 the Department of Environmental Health.

348 vi. If located in a floodplain as designated by FEMA or an area
349 of known localized flooding all panels, electrical wiring,
350 automatic transfer switches, inverters, etc. shall be located
351 above the base flood elevation; and, does not otherwise
352 create a fire or other safety hazard as determined by the
353 Building Official.

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vii. A site plan is provided at the time of Building Permit application demonstrating compliance with the standards. The Building Permit shall include review and approval by the local Fire Authority and other departments responsible for health and safety Requirements.

6. SOLAR ENERGY FACILITIES – TIER 2 (Administrative Permit - Secondary and Incidental Uses)

- A. Tier 2 SEF provide energy for on-site or off-site use and are permitted as secondary and incidental uses as shown in Table 5-1. The following standards shall apply to all Tier 2 SEF, notwithstanding the development standards for the underlying zone:
- i. Tiers Table 5-1. Meet the parameters of one of the various Tier 2 sub tiers;
 - ii. Lot Coverage. Ground mounted lot coverage for all existing, permitted, and proposed SEF is not greater than 30% of the parcel up to 10 acres whichever is less.
 - iii. Setbacks. Ground mounted structures shall conform to the setbacks as shown in Table 3-1.
 - iv. Height Limits. Facilities shall conform to the height limits of Table 3-2.
 - v. Farmland Protection. Ground mounted 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. Exception: If in Tiers 2A or 2C, this is not required due to size limitation.
 - vi. Allowed on a Williamson Act Property only under sub tier 2A and 2B circumstances - 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 or 5 acres, whichever is less, if located on prime land or 30 percent of the parcel 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.

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- 403 vii. Biological Resources. Tier 2 SEF shall not be located on
404 lands which support listed, sensitive or otherwise fully
405 protected species, or provide important habitat linkage or
406 connectivity on a landscape or regional scale as designated
407 in a General Plan, Area or Specific Plan or as identified in
408 the California Natural Diversity Database. If a proposed
409 Tier 2 SEF project is located on high habitat value parcel (s),
410 it shall require a minor or conditional use permit as
411 determined by the director.
- 412 viii. A Tier 2 SEF shall not be located in a Floodway unless
413 evaluated under a discretionary process.
- 414 ix. A site plan is provided at the time of Building Permit
415 application demonstrating compliance with the setbacks in
416 Tables 3-1&2. The Building Permit shall include review by
417 local permitting departments including but not limited to the
418 local Fire Authority for Health and Safety Requirements.
419

420 **7. SOLAR ENERGY FACILITIES – TIER 3 (Zoning Administrator aka the**
421 **Planning Manager or Similar Review Authority at a level below the**
422 **Planning Commission and above an Administrative Permit – Secondary**
423 **or Primary Use)**

- 424 A. Tier 3 must meet the parameters of one of the various Tier 3 sub
425 tiers and may be allowed in all zoning districts subject to a Minor
426 Use Permit and the requirements of a CEQA review and approval
427 by the Zoning Administrator (or other similar level approved hearing
428 process). Decisions may be appealed within 10 calendar days of
429 the decision to the Planning Commission.
- 430 B. Tier 3 SEF may be secondary or primary uses that provide energy
431 for off-site use. Tier 3 Solar Energy Facilities shall comply with the
432 following standards, notwithstanding the development standards for
433 the underlying zone:
- 434 i. Tiers Table 5-1. Meet the parameters of one of the various
435 Tier 3 sub tiers;
- 436 ii. Lot Coverage. Ground mounted lot coverage for all existing,
437 permitted, and proposed SEF is not greater than 50% of the
438 parcel up to 30 acres whichever is less;
- 439 iii. Setbacks. Ground mounted structures conform to the
440 setbacks as shown in Table 5-1;
- 441 iv. Height Limits. Facilities shall conform to the height limits of
442 Table 5-2;
- 443 v. Are ground mounted or when located on structures, they
444 shall conform to the development standards for a principal

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- 445 structure in the zone in which such facilities and structures
 446 are to be located;
- 447 vi. Allowed on a Williamson Act Parcel if findings can be made
 448 that the SEF is consistent the statutory requirements and the
 449 local rules or the contract must be terminated;
- 450 vii. A site plan shall be provided at the time of Building Permit
 451 application demonstrating compliance with the setbacks in
 452 Tables 5-1&2. The Building Permit shall include review by
 453 local permitting departments including but not limited to the
 454 local Fire Authority for Health and Safety Requirements.
 455

456 **C. Farmland Preservation.** The preservation of agricultural activities
 457 and agriculturally viable soils is an important consideration.
 458 Therefore:

- 459 i. Tier 3 SEF projects shall limit the amount of disturbance to
 460 Prime Farmland, Farmland of Statewide Importance, Unique
 461 Farmland and Locally Important agricultural lands so
 462 designated by the County to the highest extent possible,
 463 unless determined by the review authority in consultation
 464 with the Agricultural Commissioner to be chemically or
 465 physically impaired.
- 466 ii. Grading within Prime Farmland, Farmland of Statewide
 467 Importance, Unique Farmland shall be limited to only that
 468 necessary to construct access roads and install equipment,
 469 unless the areas are determined to be contaminated or
 470 otherwise non productive.
- 471 iii. **Mitigation: MOVE TO GUIDANCE FOR HOW A COUNTY**
 472 **SHOULD CONSIDER THE ISSUE OF MITIGATION AND**
 473 **HABITAT: RESPONSIBLE TO FIX WHAT YOU BROKE.**
 474 **NOLAN/DOLAN... DEFAULT TO THE**
 475 **JURISDICTION...THE VALUE OF THESE PROJECTS IS**
 476 **EXTRAORDINARILY HIGH. CONSISTENT WITH**
 477 **GENERAL PLAN POLICIES...CONSISTENT WITH HOW**
 478 **YOU TREAT ALL USES THAT EFFECT AG LAND. IF A**
 479 **CONDITION IS THAT THE PROPERTY IS CONVERTED**
 480 **BACK TO AG USE AFTER THE PROJECT LIFE, THEN**
 481 **AG MITIGATION MAY NOT BE NEEDED...if ag uses**
 482 **continue, ag mitigation may not be**
 483 **necessary/conjunctive use.** If the proposed Tier 3 SEF will
 484 impact productive agricultural land (Prime Farmland,
 485 Farmland of Statewide Importance, Unique Farmland), the
 486 project shall include conditions for mitigation for the
 487 temporary or permanent loss of agricultural land at a ratio of
 488 1:1 (one acre mitigated for one acre lost). The amount of

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489 temporary or permanent loss shall be determined by an
490 analysis of such impacts, prepared by licensed
491 professional(s). Mitigation for the temporary or permanent
492 loss of agricultural land shall be satisfied by dedication and
493 stewardship funding of perpetual agricultural conservation
494 easements either on-site or off-site and held by a qualified
495 conservation organization, or other arrangements
496 satisfactory to the County. Projects requiring 20 acres or
497 less may pay an in-lieu fee per County requirements.

498 iv. Agricultural Preserves. If the facility is located on a site
499 under a Land Conservation (Williamson Act) contract, the
500 facility must be listed as a compatible use in the local
501 Agricultural Preserve Rules, allowed by the type of contract
502 and findings of compatibility must be made by the review
503 authority in consultation with the Agricultural Commissioner
504 and/or the appointed advisory body that the SEF is
505 consistent with the principles of compatibility in conformance
506 with Government Code Section 51238.1.

507 **D. Biological Resources.** The protection of high value biological
508 resources is an important consideration when considering the
509 location of the SEF. Tier 3 SEF projects shall not be located on
510 lands which support listed, sensitive or otherwise fully protected
511 species, or provide important habitat linkage or connectivity on a
512 landscape or regional scale. If a proposed Tier 3 SEF project is
513 located on high habitat value parcel (s), it shall be processed as a
514 Tier 4 project. Applicants are encouraged to coordinate with
515 permitting agencies such as Dept. of Fish and Game and U.S. Fish
516 and Wildlife Service during design stages.

517 **E. Soil stabilization, erosion control and ground water**
518 **management.** For ground mounted SEF Tier 3, the following
519 requirements shall apply:

- 520 i. Re-vegetation plans shall be reviewed and approved by the
521 County Planning and Fire Departments. All areas occupied by
522 the facility that are not utilized for access to operate and
523 maintain the installation shall be planted and maintained with a
524 native shade tolerant grass or other vegetation for the purpose
525 of soil stabilization or other methods approved by the Planning
526 Department.
- 527 ii. A storm water management plan showing existing and proposed
528 grading and drainage demonstrating no net increase in runoff
529 shall be provided subject to approval by the review authority.
- 530 iii. A maintenance plan shall be submitted for the continuing
531 maintenance of the SEF which may include but not be limited to

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532 planned maintenance of vegetation or ground cover, equipment
533 maintenance, and plans for cleaning of solar panels if required.
534 iv. Prior to Building Permit Final, an as-built grading and drainage
535 plan, prepared by a licensed professional surveyor or other
536 approved qualified professional shall be submitted to the
537 reviewing agency's engineer for review and approval. The plan
538 shall show that the as-built conditions are substantially the same
539 as those shown on the approved grading and drainage plan.
540

541 **8. SOLAR ENERGY FACILITIES – TIER 4 (Planning Commission – Primary**
542 **Use Projects)**

543 **9. Get rid of any requirements for Tier 4, reference CEQA and the**
544 **discretionary process and give some GUIDANCE to counties, but don't**
545 **include it in the Model Ordinance...**

546 A. Tier 4 may be allowed in all zoning districts (with a combining zone)
547 subject to a Use Permit and the requirements of a CEQA review
548 and approval by the Planning Commission. Decisions may be
549 appealed within 10 calendar days of the decision to the Board of
550 Supervisors.

551 B. Tier 4 SEF are uses that provide energy primarily for off-site uses
552 or that do not meet the standards for 1, 2 or 3. Tier 4 Solar Energy
553 Facilities shall comply with the following standards, notwithstanding
554 the development standards for the underlying zone:

555 i. Tiers Table 5-1. Do not meet the parameters of one of the
556 lower Tier 1-3 sub tiers, therefore, it is deemed to be a Tier 4
557 SEF project;

558 ii. Lot Coverage. Ground mounted systems that may exceed
559 50 percent of the parcel or exceed 30 acres.

560 iii. Setbacks. Ground mounted structures shall conform to the
561 setbacks as shown in Table 5-1.

562 iv. Height Limits. Facilities shall conform to the height limits of
563 Table 5-2.

564 v. Are ground mounted or when located on structures, they
565 shall conform to the development standards for a principal
566 structure in the zone in which such facilities and structures
567 are to be located;

568 vi. Allowed on a Williamson Act Parcel if findings can be made
569 that the SEF is consistent the statutory requirements and the
570 local rules or the contract must be terminated;

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- vii. **Farmland Preservation.** Tier 4 SEFs shall comply with the Farmland Preservation standards for Tier 3 SEFs listed above.
- viii. **Agricultural Preserves.** Tier 4 SEFs shall comply with the Agricultural Preserves standards for Tier 3 SEFs listed above.
- ix. **Biological Resources.** Tier 4 SEFs shall comply with the Biological Resources standards for Tier 3 SEFs listed above.
- x. **Soil stabilization, erosion control and ground water management.** Tier 4 SEFs shall comply with the soil stabilization, erosion control and ground water management standards for Tier 3 SEFs listed above.
- xi. A site plan shall be provided at the time of Building Permit application demonstrating compliance with the setbacks in Tables 5-1&2. The Building Permit shall include review by local permitting departments including but not limited to the local Fire Authority for Health and Safety Requirements.

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NOTES: We will keep tiers 1-3 and convert Tier 4 to guidance language. Come up with guidance language for Decommissioning, Financial Assurance, Ag Mitigation...Abandonment.

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