



NOTICE OF DEVELOPMENT CODE AMENDMENTS

An ordinance was recently adopted by the Board of Supervisors amending Title 8 of the San Bernardino County Code (Development Code). Ordinance 4156 was effective on January 5, 2012. For those individuals or companies with a printed copy of the Development Code, replacement pages reflecting the changes made by this ordinance can be printed by using a print setting for 2-sided pages. Please remove all old pages and replace them with the new ones as indicated on the following list:

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COUNTY OF SAN BERNARDINO

2007 DEVELOPMENT CODE

Prepared for:

County of San Bernardino
Land Use Services Division
385 North Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

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Acknowledgements

The following individuals contributed to preparation of the San Bernardino County General Plan

Board of Supervisors

Brad Mitzelfelt, First District Supervisor
Paul Biane, Second District Supervisor, Chairman
Dennis Hansberger, Third District Supervisor
Gary Ovitt, Fourth District Supervisor, Vice Chairman
Josie Gonzales, Fifth District Supervisor

Planning Commission

Ken Anderson, First District
Michael Cramer, Second District
Bill Collazo, Third District
Mark Dowling, Fourth District, Vice Chairman
Audrey Mathews, Fifth District, Chair

General Plan Advisory Committee (GPAC)

Mark Bulot, Redlands
Ted Dutton, Lake Arrowhead
Scott Frier, Helendale
Matt Jordan, Redlands
Michael Kreeger, Chino Hills
Jornal K. Miller, Muscoy
Ken Morrison, Yucca Valley
Kathy Murphy, Fawnskin
Mark Nuaimi, Fontana
Marvin Shaw, Lake Arrowhead
Doug Shumway, Apple Valley
Jean Stanton, Bloomington
Eric Swanson, Hesperia

County Staff

Julie Rynerson Rock, AICP, Director, Land Use Services Department
Randy Scott, AICP, Deputy Director, Advance Planning
Jim Squire, AICP, Supervising Planner
Carrie Hyke, AICP, Supervising Planner
Dave Prusch, AICP, Senior Associate Planner
Ron Matyas, Senior Associate Planner
Matt Slowik, REHS, Senior Associate Planner

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CHAPTER 84.29 RENEWABLE ENERGY GENERATION FACILITIES

Sections:

- 84.29.010 Purpose
- 84.29.020 Applicability and Land Use Zoning Districts
- 84.29.030 Wind Energy Development Standards
- 84.29.040 Solar Energy Development Standards
- 84.29.050 Special Fencing Standards
- 84.29.060 **Additional Wind and Solar Energy Development Standards**
- 84.29.070** Decommissioning Requirements

84.29.010 Purpose

The purpose of this Chapter is to establish standards and permit procedures for the establishment, maintenance and decommissioning of renewable energy generation facilities. These regulations are intended to ensure that renewable energy generation facilities are designed and located in a manner that minimizes visual and safety impacts on the surrounding community.

Adopted Ordinance 4098 (2010)

84.29.020 Applicability and Land Use Zoning Districts

This Chapter provides development standards for wind and solar renewable energy generation facilities.

The Land Use Zoning Districts that allow renewable energy facilities are limited to the following:

RC (Resource Conservation)

AG (Agriculture)

FW (Floodway)

RL (Rural Living) Note: If a facility is proposed solely in the Rural Living land use zoning district, it must include a minimum of 20 acres in the development proposal with the exception of the following parcels:

0654-282-12	0538-161-11	0421-281-08
0436-162-17	0434-112-47	0632-281-57
0436-142-17	0437-063-21	0502-085-77
3131-411-02	0538-081-58	0507-141-61
0538-081-20	0498-131-04	
0455-053-21	0503-081-18	

IR (Regional Industrial)

Adopted Ordinance 4098 (2010)

84.29.030 Wind Energy Development Standards

(a) **Height limits.** Wind generator machine and associated meteorological tower overall height shall not exceed 500 feet. For the purposes of this chapter, machine height shall be measured as follows:

- (1) Overall machine height of horizontal axis machines shall be measured from grade to the top of the structure, including the uppermost extension of any blades.
- (2) Machine height of vertical axis or other machine designs shall be measured from grade to the highest point of the structure. Further restrictions may apply to ensure aviation safety.

(b) **Setbacks and Spacing.** Wind generator setbacks shall be as follows:

- (1) **Setback Where Adjacent Parcels Contain Less Than 40 Acres.** A minimum wind generator setback of two times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or 500 feet, whichever is less, shall be maintained from exterior project boundaries where the project site is adjacent to existing parcels of record that contain less than 40 acres and are not zoned as any of the compatible districts, which are as follows.

RC (Resource Conservation)
AG (Agriculture)
FW (Floodway)
RL (Rural Living)
IR (Regional Industrial)

The Director may allow a reduction in this setback, not to exceed a minimum setback of one times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) if a letter of consent from the owner(s) of record of adjacent parcels is filed with the County Advance Planning Division.

- (2) **Setback Where Adjacent Parcels Contain 40 Acres or More.** A minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or 500 feet, whichever is less, shall be maintained from all exterior project boundaries. The Director may allow a reduction or waiver of this setback requirement in accordance with both of the following provisions:
 - (A) The project exterior boundary is a common property line between two (2) or more approved wind energy projects or both properties are located within compatible districts as listed above; and

- (B) The property owner of each affected property has filed a letter of consent to the proposed setback reduction with the Director.
- (3) **Setback from Off-site Residence(s) On Adjacent Parcels.** In all cases, regardless of parcel area, a minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blades) or 1,500 feet, whichever is greater, shall be maintained from any off-site residence. The Director may allow a reduction in this setback, not to exceed a minimum setback of one times the overall machine height, if a letter of consent from the owner(s) of record of the adjacent parcel is filed with the Director.
- (4) **Setback from On-site Residences and Accessory Structures Designed for Human Occupancy.** A minimum wind generator setback of one times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any on-site residence or accessory structure designed for human occupancy.
- (5) **Setback from Public Highways and Streets, Public Access Easements, Public Trails, and Railroads.** A minimum wind generator setback of one and one-half times the overall machine height (measured from grade to the top of the structure, including the uppermost extension of any blade) shall be maintained from any publicly maintained public highway or street. A minimum wind generator setback of one times the overall machine height shall be maintained from any public access easement or railroad right-of-way. A minimum wind generator setback of 150 feet shall be maintained from the outermost extension of any blade to any public trail, pedestrian easement, or equestrian easement.
- (6) **Project Interior Wind Generator Spacing.** Wind generator spacing within the project boundary shall be in accordance with accepted industry practices pertaining to the subject machine.
- (c) **Compliance with aviation law and Department of Defense restrictions.** The wind generator machines shall comply with all applicable Federal Aviation Administration requirements and the State Aeronautics Act (Public Utilities Code Section 21001 et seq.). Additionally, the local Department of Defense contact person(s) shall be notified and clearance from the Department of Defense shall be required for all wind generators.
- (d) **Lighting.** Wind energy generation facilities shall be lighted in compliance with FAA (Federal Aviation Administration) regulations.
- (e) **Site Design for Protection of Biological Resources.** Wind energy generation facilities will be designed in such a manner as to protect special-status species and avian and bat species, including the following:
- (1) The design will discourage the use of the site by raptors by including landscaping and ground conditions that are unattractive to raptors;

- (2) The design and siting of these facilities shall avoid the placement of turbines on or immediately adjacent to the upwind side of ridge crests;
- (3) The design may include other design features to minimize impacts to bats and birds; and
- (4) An avian and bat management plan shall be required for all projects to address unanticipated significant adverse impacts on the population of avian or bat species or with any other migratory corridor.

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

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.

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

84.29.50 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)

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CHAPTER 84.30 GREENHOUSE GAS EMISSIONS REDUCTION PLAN IMPLEMENTATION

Sections:

- 84.30.010 Purpose
- 84.30.020 Applicability and Land Use Zoning Districts
- 84.30.030 GHG Performance Standards

84.30.010 Purpose

The purpose of this Chapter is to establish a mechanism intended to reduce greenhouse gas (GHG) emissions in compliance with the County GHG Emissions Reduction Plan, adopted December 6, 2011. These regulations are intended to ensure consistent application of these uniform standards for development within San Bernardino County.

Adopted Ordinance 4156 (2011)

84.30.020 Applicability and Land Use Zoning Districts

This Chapter provides development standards to reduce greenhouse gas emissions that apply to all types of development within the County's land use jurisdictional area.

Adopted Ordinance 4156 (2011)

84.30.030 GHG Performance Standards

All new residential, commercial, industrial and institutional development shall comply with the development standards provided in Appendix F to the GHG Emissions Reduction Plan.

Adopted Ordinance 4156 (2011)

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CHAPTER 85.03 APPLICATION PROCEDURES

Sections:

- 85.03.010 Purpose
- 85.03.020 Applications for Land Use Decisions
- 85.03.030 Development Review Committee
- 85.03.040 Environmental Review
- 85.03.050 Concurrent Applications
- 85.03.060 Application Forms and Information Packets
- 85.03.070 Pre-application Review
- 85.03.080 Notice of Pending Land Use Decisions
- 85.03.090 Conditions of Approval
- 85.03.100 Automatic Conditions
- 85.03.110 Post Decision Notice

85.03.010 Purpose

This Chapter establishes the application requirements and noticing provisions necessary to process development proposals in any land use zoning district.

Adopted Ordinance 4011 (2007)

85.03.020 Applications for Land Use Decisions

Applications for all land use decisions shall be made at the offices of the applicable review authority on forms supplied by the Department. Each application for a land use decision shall be accompanied by the information and materials deemed necessary to render the requested land use decision before the application is deemed complete and accepted for filing. Any application made under the provisions of this Development Code may be initiated by the Board or by any interested party unless otherwise indicated in this Development Code.

The submission of a complete application for land use approval and the participation in and cooperation with the applicable application review process shall not nullify, excuse, or exonerate any violation of the San Bernardino County Code existing on the property or arising from the use of the property for which such application was made. Further, the submission of a complete application for land use approval and the participation in and cooperation with the applicable application review process shall not toll or bar any enforcement action taken by or on behalf of the County to correct or abate any violation of the San Bernardino County Code existing on the property or arising from the use of the property for which such application was made.

Adopted Ordinance 4011 (2007); Amended Ordinance 4085 (2009)

85.03.030 Development Review Committee

- (a) **Evaluation of proposals by the Development Review Committee (DRC).** Development review procedures include evaluation of proposals at a scheduled meeting of the DRC.
- (b) **Consideration of design and proposed conditions.** The DRC meeting allows informal discussions between the applicant, County staff, and others regarding the design and proposed conditions for a given proposal. The DRC provides a recommendation to the applicable review authority.

Adopted Ordinance 4011 (2007)

85.03.040 Environmental Review

- (a) **Applications subject to CEQA.** All land use applications that are subject to the California Environmental Quality Act (CEQA) shall be reviewed by the Department in compliance with the County Environmental Review Guidelines.
- (b) **Environmental findings required.** Before taking an action to approve a land use application that is subject to CEQA, the Planning Agency shall make one or more environmental findings. The environmental finding(s) is required in addition to the findings specified in this Development Code for each application type.
- (c) **Greenhouse Gas (GHG) Emissions Review.** All land use applications that are subject to CEQA review shall have the potential impacts of the project's GHG emissions evaluated pursuant to the procedures entitled Review of GHG Emissions, Land Use Service Department Standard Policy/Procedures Manual, Section 9 (Environmental Review Guidelines).

Adopted Ordinance 4011 (2007); Amended Ordinance 4156 (2011)

85.03.050 Concurrent Applications

When more than one land use decision is required for a single project, all applications may be filed concurrently.

Adopted Ordinance 4011 (2007)

85.03.060 Application Forms and Information Packets

- (a) **Forms and Information Packets.** Each land use application Forms and Information Packet shall include a list of the information and materials required for the application to be considered complete.

- (b) **Failure to provide required information.** Any application for a land use decision that does not contain the required information and materials, or that is not accompanied by the appropriate application fee in compliance with the County Fee Ordinance, may be rejected as incomplete by the Planning Agency.

Adopted Ordinance 4011 (2007)

85.03.070 Pre-application Review

When the complexity of a land use application warrants it, the applicable review authority or the office given responsibility for accepting the land use application may require that the applicant submit materials and attend necessary conferences or hearings to conduct a preliminary review of a development proposal before the acceptance of the application.

Adopted Ordinance 4011 (2007)

85.03.080 Notice of Pending Land Use Decisions

- (a) **Public hearing or staff review with notice procedures.** Upon receipt of a request for a land use decision that utilizes the public hearing or staff review with notice procedures, the applicable review authority shall give notice specifying the time and place for the decision at least 10 calendar days before the date of the scheduled land use approval/denial by the following applicable methods:
- (1) Notice shall be published once in a newspaper of general circulation in the respective community of the proposal for the following land use decisions using the public hearing procedure:
 - (A) Amendments to the text of the General Plan or a specific plan.
 - (B) Development Code amendments.
 - (C) General Plan map amendments.
 - (D) Subdivisions, where a tentative and final map are required.
 - (2) Notice shall be given by first class mail to any person who has filed a written request for a specific application.
 - (3) Notice shall be given by first class mail or delivery to all surrounding property owners within a certain distance of the exterior boundaries of the subject site for land use decisions using the public hearing or staff review with notice procedures. The distances shall be in compliance with the Table 85-2 (Distance Requirements of Noticing Purposes), below.

**Table 85-2
Distance Requirements for Noticing Purposes**

Size of Project Parcel(s)	Property owners of parcels located within the following distances of the exterior boundaries of the subject parcel ⁽¹⁾
20 acres or less	300 feet
20.1 to 160 acres	700 feet
160.1 acres or greater	1,300 feet
Notes: (1) Refer to Chapter 85.04 (ABC Licensing) for special noticing requirements for ABC Licensing projects.	

- (4) Notice shall be given by first class mail or delivery to all contiguous property owners for land use decisions using the staff review with notice procedures.
- (5) Notice shall also be given, as required by Government Code Section 66451.3, in the case of a conversion of residential real property to a community apartment project, condominium project, or stock cooperative.
- (6) Notice may be given in any other manner as is deemed necessary or desirable by the Director.
- (b) **Required information for notices.** The notice shall include sufficient information to give those receiving the notice a reasonable opportunity to evaluate the implications of the proposal and to participate in the decision making process. Furthermore, notices for land use decisions involving subdivisions for which a tentative and final map are required shall inform the recipient of their right to request, before the noticed land use decision date, that the proposal be reviewed by the County under the public hearing procedures.
- (c) **One-eighth page optional notice.** An one-eighth page legal display advertisement in a newspaper of general circulation may be substituted for individual property owner notice whenever the individual notice would require notification of more than 1,000 property owners.
- (d) **Ownership and addresses of properties.** Ownership and addresses of contiguous and surrounding properties shall be determined from the latest equalized tax assessment role or from other records of the County Assessor or County Tax Collector, whichever contains more recent information.
- (e) **Continued hearings.** During the public hearing, items that are continued by the review authority to a specific date shall not be re-noticed unless specifically requested by the review authority.

Adopted Ordinance 4011 (2007)

85.03.090 Conditions of Approval

In approving an application for a land use decision, the review authority may establish reasonable conditions to its approval that are found to be necessary to protect the public health, safety, and general welfare that are consistent with the General Plan and this Development Code. Conditions of approval may be changed through the Chapter 85.12 (Revisions to an Approved Action).

Adopted Ordinance 4011 (2007)

85.03.100 Automatic Conditions

Any development project defined in Government Code Sections 65927 and 65928, which is automatically approved in compliance with Government Code Section 65956, shall be approved subject to all of the following standard conditions:

- (a) **Allowed uses.** The development project shall be an allowed use in the applicable land use zoning district.
- (b) **Compliance with plans and Development Code required.** The development project shall be consistent with the General Plan, any applicable specific plan, and this Development Code.
- (c) **Compliance with public health, safety, and welfare requirements.** The development project shall comply with the public health, safety, and welfare requirements of other public agencies. These agencies include the County Department of Public Works, Fire Department, Special Districts Department and Divisions of Environmental Health Services and Building and Safety.
- (d) **Failure to comply.** Any automatic approval of a development project shall become null and void unless all conditions imposed by this Section have been fully complied with, and the occupancy, use of the land, and use of the proposed or existing structure(s) authorized by the automatic approval, has taken place within 36 months after the date of the automatic approval.

Adopted Ordinance 4011 (2007)

85.03.110 Post-Decision Notice

- (a) **Provision of notice.** Within 10 days of a final decision on an application for a permit or other approval required by this Development Code, the County shall provide notice of its final action to the applicant and to any person(s) who specifically requested notice of the County's final action and has provided a self addressed stamped envelope.
- (b) **Contents of notice.** The notice shall contain the final decision by the review authority.

Adopted Ordinance 4011 (2007)

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