

ORDINANCE NO. 2020-07

SOLAR ENERGY FACILITIES

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

**SECTION I. SUMMARY.** This ordinance adds Chapter 88-30 to the County Ordinance Code to allow the establishment of commercial solar energy facilities in the general commercial (C), light industrial (L-I), heavy industrial (H-I), and planned unit (P-1) districts, and in the solar energy generation (-SG) combining district.

**SECTION II.** Chapter 88-30 is added to the County Ordinance Code, to read:

**Chapter 88-30**  
**SOLAR ENERGY FACILITIES**

**Article 88-30.2**  
**General**

**88-30.202 Title.** This chapter is known as the Solar Energy Facilities Ordinance of Contra Costa County. (Ord. 2020-07 § 2.)

**88-30.204 Purpose.** The purpose of this chapter is to regulate the establishment of commercial solar energy facilities in the unincorporated area of Contra Costa County. (Ord. 2020-07 § 2.)

**88-30.206 Definitions.** For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Accessory solar energy facility,” also referred to as a “solar energy system,” means a solar energy facility that is designed to collect, store, and distribute no more solar energy than what is necessary to meet on-site energy demand.
- (b) “Commercial solar energy facility” means a solar energy facility that is designed to collect, store, and distribute solar energy that will be used to meet off-site energy demand.
- (c) “Solar energy facility” means any solar collector or other solar energy device that collects, stores, and distributes solar energy for space heating, space cooling, electric generation, or water heating. “Solar energy facility” includes a photovoltaic system consisting of one or more solar panels, a solar thermal system that converts solar energy to electricity by heating a working fluid to power a generator, and a solar hot water system designed to heat water for either domestic or commercial uses. (Ord. 2020-07 § 2.)

## **Article 88-30.4 Permits**

**88-30.402 Land use permit required.** No person may establish or expand a commercial solar energy facility in the unincorporated area of the County without first obtaining a land use permit, except as otherwise provided in this chapter. (Ord. 2020-07 § 2.)

**88-30.404 Permit–exception.** A commercial solar energy facility may be established or expanded without a land use permit if the facility meets all of the following criteria.

- (a) The facility is installed on the roof of an existing building or on a parking canopy at an existing parking lot. For purposes of this section, “existing parking lot” means an area designated and used for parking of vehicles as of the time the commercial solar energy facility is established and for at least the previous two years.
- (b) The facility is located in a general commercial (C), light industrial (L-I), or heavy industrial (H-I) district, or in a planned unit (P-1) district with an underlying general plan land use designation of commercial or industrial.
- (c) The facility complies with the standards set forth in sections 88-30.604 through 88-30.614. (Ord. 2020-07 § 2.)

**88-30.406 Application and fee.** An application for a land use permit for a commercial solar energy facility must be made in writing on a form approved by the director and must be accompanied by the required fee, in an amount established by the board of supervisors in the department’s fee schedule. (Ord. 2020-07 § 2.)

**88-30.408 Compliance review.** The department may perform a compliance review at any time to determine whether a permittee is complying with the permit's terms and conditions, the requirements of this chapter, and all applicable laws and regulations. A permittee shall cooperate with the department to complete the compliance review and must pay all applicable compliance review fees. (Ord. 2020-07 § 2.)

**88-30.410 Building permits.** Nothing in this chapter, and no permit or permission granted under this chapter, waives any requirement of Title 7, including the requirement to obtain all applicable building permits for construction of a commercial solar energy facility. (Ord. 2020-07 § 2.)

## **Article 88-30.6 Standards**

**88-30.602 Location requirement.** A commercial solar energy facility may be established on any lot in a general commercial (C), light industrial (L-I), or heavy industrial (H-I) district, or in a

planned unit (P-1) district with an underlying general plan land use designation of commercial or industrial, or in a solar energy generation (-SG) combining district. (Ord. 2020-07 § 2.)

**88-30.604 Setbacks.** The front yard, side yard, and rear yard setback requirements for a commercial solar energy facility are those applicable in the underlying zoning district. (Ord. 2020-07 § 2.)

**88-30.606 Height.**

- (a) A ground-mounted commercial solar energy facility may not exceed 25 feet in height. For a ground-mounted facility, height is measured as the vertical distance from the natural or finished grade, whichever is lower, to the top of the structure.
- (b) A roof-mounted commercial solar energy facility may not exceed four feet above the roof surface. (Ord. 2020-07 § 2.)

**88-30.608 Visibility.** A commercial solar energy facility that is visible from any public right-of-way or other public space must be designed and installed to minimize visual and aesthetic impacts to the greatest extent feasible. (Ord. 2020-07 § 2.)

**88-30.610 Illumination.** A commercial solar energy facility may not include any type of lighted signal, lights, or other illumination, except as necessary for the operation of the facility. (Ord. 2020-07 § 2.)

**88-30.612 Septic system avoidance.** A commercial solar energy facility may not be located above a septic system or leach field unless approved by the Environmental Health Division of the County Department of Health Services. (Ord. 2020-07 § 2.)

**88-30.614 Habitat avoidance.** A commercial solar energy facility may not be located within 75 feet of any creek or within 50 feet of any other aquatic habitat unless a land use permit is issued and the zoning administrator determines: that there will be no impact to the aquatic habitat; or that mitigation measures are available to minimize or offset any impacts to the aquatic habitat and the zoning administrator requires the mitigation measures as a condition of permit approval. (Ord. 2020-07 § 2.)

**88-30.616 Site restoration.** If a commercial solar energy facility is located in an -SG combining district, the following site restoration requirements apply.

- (a) A site restoration plan must be approved by the zoning administrator before a land use permit is issued. The restoration plan must do all of the following:
  - (1) Identify the specific properties to which the plan applies.

- (2) Indicate that all commercial solar energy facilities, buildings, structures, and foundation will be removed to three feet below finished grade.
  - (3) Detail all regrading and revegetation necessary to return the subject property to the condition existing before the commercial solar energy facility was established or expanded. The plan must accurately show all topography, vegetation, drainage, and unique environmental features of the site.
  - (4) Provide an estimate of total restoration costs, including materials and labor.
  - (5) Include a statement that the operator, applicant, and permittee guarantee and accept responsibility for all restoration work for a period of two years after completion of restoration.
- (b) A cash deposit or surety bond must be deposited with the department to ensure the completion of the restoration work described in an approved plan. The zoning administrator will determine the amount of security before a land use permit is issued. The amount of security will include all material and labor costs, adjusted for inflation to reflect anticipated total costs at the time of restoration. (Ord. 2020-07 § 2.)

### **Article 88-30.8 Accessory Solar Energy Facilities**

**88-30.802 Approved use.** An accessory solar energy facility may be established in any zoning district in accordance with Chapter 718-12. The permitting and standards provisions of this chapter do not apply to accessory solar energy facilities. (Ord. 2020-07 § 2.)

**SECTION III.** Section 718-12.002 of the County Ordinance Code is amended to read:

#### **718-12.002 Building permit required.**

- (a) A building permit is required to install a solar energy system. "Solar energy system," also referred to as an "accessory solar energy facility," has the meaning set forth in Section 88-30.206.
- (b) An application for a building permit to install a solar energy system will be processed in accordance with Government Code section 65850.5. (Ords. 2020-07 § 3, 2015-13, § 2.)

**SECTION IV.** Ordinance No. 2017-17 is repealed in its entirety.

**SECTION V. EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the East Bay Times, a newspaper published in this County.

ORDINANCE NO. 2020-07

PASSED on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:     DAVID J. TWA,  
                 Clerk of the Board of Supervisors  
                 and County Administrator

\_\_\_\_\_  
Board Chair

By:                \_\_\_\_\_  
                 Deputy

[SEAL]

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