

BRECKINRIDGE COUNTY FISCAL COURT

ORDINANCE: 2022

AN ORDINANCE REGULATING SOLAR ENERGY SYSTEMS AND SOLAR PANEL INSTALLATION.

WHEREAS, the Breckinridge County Fiscal Court has determined it to be in the public interest to regulate Solar Energy Systems and Solar Panel Installation.

NOW THEREFORE, BE IT ORDAINED BY THE BRECKINRIDGE COUNTY FISCAL COURT THAT THE FOLLOWING WILL BE

4.3.7. Solar Energy Systems (SES) –

4.3.7.1 Permitted – Level 1 Solar Energy Systems that comply with the requirements of the Section 4.3.7. shall be allowed in all zoning districts. Level 2 and 3 SES, as set forth below, shall be a conditional use in all Agricultural or Commercial/Heavy Industrial Zones. Those seeking a permit for Level 3 SES must be granted approval by a majority vote of Breckinridge County Fiscal Court.

4.3.7.2 Design Standards – a Solar Energy System (SES) is the components and subsystems required to convert solar energy into electric energy suitable for use or placement on the electrical grid, including transmission lines, transformers and substations. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, and areas required to connect to the electrical grid, including transmission lines, transformers and substations. For the purposes of these zoning regulations, solar energy systems are divided into three (3) classes.

4.3.7.2.a Level 1 Solar Energy System – Any ground mounted system not included in a Level 1 SES and meets the following area restrictions:

1. The area of the SES shall not exceed five (5) acres in size.
2. An SES of any size up to five (5) acres shall require a site plan Approved by the Breckinridge County Fiscal Court.

4.3.7.2.b Level 2 Solar Energy – Any system that does not satisfy the parameters for a Level 1 or Level 2 SES. Each Level 3 SES shall require a site plan approved by the Breckinridge County Fiscal Court.

4.3.7.3 Requirements – Solar Energy Systems (SES) shall comply with the following criteria:

4.3.7.3.a The height of any ground mounted SES shall not exceed twenty-five (25) feet as measured from the highest natural grade below each solar panel (excludes utility poles, substations and antennas constructed for the project).

4.3.7.3.b Setback requirements for Level 3 SES shall be as follows:

1. All components of the SES shall be at least fifty (50) feet from the perimeter property lines of the project area and at least three hundred (300) feet from any residential structure, nursing home, church, or school; interconnection facilities may be located within the setback lines, and
2. No interior property line setbacks shall be required if the project spans multiple contiguous properties.
3. The Breckinridge County Fiscal Court may require more or less stringent setback lines, to be determined on a case by case basis.

4.3.7.3.c All Level 3 SES shall be screened with a seven (7) foot tall fence and to the extent reasonably practicable, a visual buffer that provides reasonable screening to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right of way). A vegetation screening plan to reduce the view of the SES from residential dwelling units on adjacent lots will be submitted as part of the site plan for approval of the Breckinridge County Fiscal Court. The existing natural tree growth and natural land forms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable. When no alternative vegetation screening plan is approved by the Breckinridge County Fiscal Court, a double row of staggered evergreen trees will be planted 15' on center from adjacent non participating residential dwellings including the outdoor living space immediately near residential dwellings. Parcel boundaries with no proximity to residential dwellings shall not require screening. The proposed evergreen trees shall be placed on the exterior of security fencing. The use of barbed wire or sharp pointed fences shall be prohibited in or along any boundary adjoining residential properties. The Breckinridge County Fiscal Court may require additional screening and/or visual buffers on a case-by-case basis.

4.3.7.3.d There shall be no signs permitted except those displaying emergency information, owner contact information, warning or safety instructions or signs that required by a federal, state or local agency. Such signs shall not exceed five (5) square feet in area.

4.3.7.3.e Excessive lighting shall be prohibited except that required by federal or state regulations.

4.3.7.3.f Upon application to the Breckinridge County Fiscal Court, a Level 3 SES shall provide a soil erosion plan. A Level 3 SES shall comply with all existing federal, state, and local environmental restrictions.

4.3.7.3.g Decommissioning of Level 3 SES shall be as follows:

(1) The developer shall post a Surety Bond or other form of Security acceptable to the Breckinridge County Fiscal Court, for the abandonment of the site and in the event the Commission must remove the facility. Abandonment shall be when the SES ceases to transfer energy on a continuous basis for twelve (12) months. The surety bond or other form of security shall be one hundred (100) percent of a reasonable estimate submitted for the decommissioning of the project to be re-calculated every five (5) years during the project life. The cost of decommissioning will include a reasonable reduction for the scrap value of the components left on the property.

(2) A decommissioning plan shall be submitted at the time of application by the developer responsible for decommissioning and must include the following:

(a) Defined conditions upon which the decommissioning will be initiated. i.e. there has been no power production for twelve (12) months, the land lease has ended, or succession of use of abandoned facility, etc.

(b) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations to the depth of three (3) feet,

(c) Restoration of the property to substantially similar physical condition that existed immediately prior to construction of the SES,

(d) The time frame for completion of decommissioning activities,

(e) The party currently responsible for decommissioning, and

(f) Plans for updating the decommissioning plan.

4.3.7.3.h Other uses within the SES projects, such as grazing or other agricultural purposes, are to be negotiated on a case-by-case basis between the landowner and the SES developer.

Given a first reading on the 21st day of March, 2022.

Approved by a majority vote of the Breckinridge County Fiscal Court
this 27th day of June, 2022.

Maurice Lucas

Breckinridge County Judge Executive

Kathina Bell

Breckinridge County Fiscal Court Clerk

Breckinridge County, Kentucky

Kathina Bell