

**COMMONWEALTH OF KENTUCKY
TODD COUNTY FISCAL COURT
ORDINANCE NO. 22-7**

**AN ORDINANCE REGULATING THE DEVELOPMENT AND OPERATION
OF SOLAR ENERGY SYSTEMS WITHIN TODD COUNTY, KENTUCKY**

WHEREAS, the solar energy industry is a growing industry as the harvest and storage of solar energy has become economically feasible; and

WHEREAS, the solar energy industry has developed solar panel systems that can be located on principal structures, on accessory buildings, or as free standing ground mounted structures; and

WHEREAS, there is a need to recognize and regulate this growing solar energy industry as the location of solar energy systems may affect the use and enjoyment of the property of adjoining property owners.

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF TODD COUNTY, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

SECTION I: DEFINITIONS

Solar Energy System (SES) means a device, including its components and subsystems, that collects solar energy for electricity generation, consumption, or transmission, or for thermal applications. SESs are in turn divided into three types depending on how the system is incorporated into the existing land use:

Integrated Solar Energy System means an SES where the solar materials are incorporated into the building materials, such that the building and solar system are reasonably indistinguishable, or where the solar materials are used in place of traditional building components, such that the SES is structurally an integral part of the house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building façade, skylight, shingles, canopy, light, or parking meter.

Rooftop Solar Energy System means an SES that is structurally mounted to the roof of a house, building, or other structure and does not qualify as an Integrated SES.

Ground Mounted Solar Energy System means an SES that is structurally mounted to the ground and does not qualify as an Integrated SES or Rooftop SES. Ground Mounted SESs are subcategorized as follows:

Small Scale Ground Mounted Energy System (Small Scale SES)

which is a Ground Mounted SES with a Footprint of less than 2,500 square feet.

Intermediate Scale Ground Mounted Energy System (Intermediate Scale SES) which is a Ground Mounted SES with a Footprint of between 2,501 square feet and ten (10) acres.

Large Scale Ground Mounted Solar Energy System (Large Scale SES) means a Ground Mounted SES with a Footprint of more than ten (10) acres.

SES Structure is anything constructed or made for use with SES, and which requires a permanent location in or on the ground or attachment to something having a permanent location in or on the ground.

SECTION II. SETBACK REQUIREMENTS

- A. The Todd County Fiscal Court hereby establishes the following minimum setback requirements for solar energy systems which are governed by KRS 278.704, as measured from the outer edge of the nearest solar panel:

Horizontal distance from a...	Minimum Setback Distance (measured in feet)
Boundary line of any adjacent property *	2,000
Any residence, building or structure or appurtenance thereto existing at the time of application for permits with the Kentucky Electric Generation and Transmission Siting Board *	2,000
Public road right-of-way, measured from edge of the right-of-way	1,000
Designated scenic highways and byways measured from the edge of the right-of-way	2,000
Other rights-of-way, such as railroads and public utility easements, measured from the edge of the right-of-way	1,000
Cemeteries	2,000

* Affected private property owners may modify or waive these setback requirements by notifying the Todd Fiscal Court in writing of the modification or waiver.

B. The Todd County Fiscal Court may grant a deviation in its discretion from the requirements of this subsection upon a finding that the proposed facility is designed to and, as located, would meet the goals of KRS 224.10-280, 278.010, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 at a distance closer than those provided in this subsection.

SECTION III. OTHER APPLICABLE STANDARDS

A. Height Requirements.

1. Ground Mounted SES shall not exceed fifteen (15) feet in height as measured from the highest natural grade below each solar panel without approval by the Fiscal Court. The height restriction excludes utility poles, substation structures, and antennas constructed for the project. A Ground Mounted SES may exceed fifteen (15) feet in height upon a finding that the SES would be more productive, use less land, or provide other environmental, economic, or other benefits if the height limitation is increased.

B. Protection of Farmland and Revegetation of Disturbed Areas

2. Upon completion of construction and installation of the Ground Mounted SES, all temporary roads constructed by the applicant shall be removed, and all disturbed areas shall be graded and reseeded with short-term cover crops and sustainable, non-weed native vegetation in order to establish an effective ground cover and to minimize erosion and sedimentation. The permanent location of solar arrays on impermeable surfaces, including but not limited to gravel and asphalt, is prohibited. Temporary roads may remain upon request by the property owner.

C. Signage

All signs pertaining to an intermediate or large scale SES project must comply with the following:

1. No sign shall exceed sixteen (16) square feet in surface area except development signs.

2. No sign shall exceed eight (8) feet in height.

3. The manufacturer's or operator's company name and/or logo may be placed upon the compartment containing the electrical equipment in accordance with customary practice.

4. An identification sign relating to the SES Project development shall be located on each side of the total SES Project area. There shall be at least one sign for every quarter-mile of

fencing along the edge of the project footprint. Development signs must include seven (7) day per week contact information to reach a responsible representative of the operator with authority to resolve problems associated with development of a SES Project.

5. No other advertising signs or logos shall be placed or painted on any structure or facility with the exception of an identifying sign at the operation and maintenance facility.

D. Fencing

Access to the site must be controlled by a fence of at least eight feet in height with a vegetative landscape buffer provided between the fencing and the property line. The fence shall be equipped with screening to help shield the facilities and equipment from view. For intermediate and large scale ground mounted energy systems, screening shall consist of:

1. An eight (8) foot tall fence and a double row of staggered evergreen trees (minimum of five (5) feet in height at planting);
2. Evergreen trees shall be planted exterior to the fence and shall be setback no less than fifteen (15) feet from the nearest property line;
3. Screening shall achieve an opacity of 90% to a height of no less than eight (8) feet within three years of planting;
4. Screening shall be installed within 180 days of the start of physical construction and shall be maintained until the decommissioning of the SES is completed; and
5. All unhealthy, dead, or noncompliant plantings shall be repaired or replaced within ninety (90) days of such occurrence.

SECTION IV.

If any section, subsection, sentence clause or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmities shall not affect the validity of the remaining portions of this ordinance.

SECTION V.

All other state and regulatory laws that are not specifically addressed by this ordinance remain in full force and effect.

SECTION VI.

The provisions of this Ordinance shall apply to all unincorporated areas within Todd County, Kentucky, and to the siting, construction, installation, and decommissioning of any new SES system on or after the effective date of this Ordinance. An SES in operation, or which has begun physical construction prior to this Ordinance's effect date, shall be considered to have legal nonconforming status in accordance with KRS 100.253.

SECTION VII. PENALTY

Any person found in violation of this Ordinance shall be guilty of a misdemeanor and shall be fined an amount not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars. Each day of violation shall constitute a separate offense.

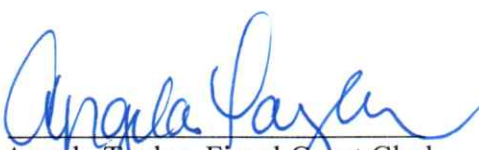
SECTION VIII.

This ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

Upon motion of Squire Bryant, and seconded by Squire Blake, the foregoing Ordinance was approved on first reading on the 9th day of December 2022;

The foregoing Ordinance came on for second reading before the Fiscal Court on 12-29-22, 2022; and upon motion of Squire Blake, seconded by Squire Turner, the Ordinance passed and was Ordered published.


TODD MANSFIELD
Todd County Judge-Executive

Attest: 
Angela Taylor, Fiscal Court Clerk