

COMMONWEALTH OF KENTUCKY  
OLDHAM COUNTY  
ORDINANCE NO. KOC 23-920-343

\*\*\*\*\*

AN ORDINANCE REPEALING AND REPLACING CERTAIN SECTIONS OF THE EXISTING OLDHAM COUNTY COMPREHENSIVE ZONING ORDINANCE.

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WHEREAS, the Oldham County Fiscal Court has the authority pursuant to the provisions of KRS Chapters 67, 100, and other applicable law to adopt and amend ordinances; and,

WHEREAS, Oldham County Joint Planning and Zoning Commission did conduct an advertised public hearing on March 28, 2023 on the issue of amending certain sections of the Oldham County Comprehensive Zoning Ordinance to include the attached revisions, and at the conclusion of said hearing, did recommend to the Oldham County Fiscal Court that certain sections of the Oldham County Comprehensive Zoning Ordinance be amended to include the revisions; and,

WHEREAS, Oldham County Fiscal Court did advertise and conduct a public hearing on the recommended Oldham County Comprehensive Zoning Ordinance changes attached hereto, and the said Fiscal Court having voted to adopt said revisions to sections at its regular meeting conducted June 20, 2023:

**Affected Sections:**

**Oldham County Comprehensive Zoning Ordinance:**

Private Clubs & Event Venues

Section 250-220: Private Clubs & Event Venues Including Swimming, Tennis, & Other Recreation Special Provisions

Section 260-340: Private Clubs & Event Venues Including Swimming, Tennis, & Other Recreation Conditional Use Standards

Agritourism Buildings

Section 250-210: Agritourism Buildings Special Provisions

Section 260-035: Agritourism Buildings Conditional Use Standards

Golf Driving Ranges

Section 260-210: Golf Driving Ranges Conditional Use Standards

School Capacity Standards

Section 270-050: School Capacity Standards (Non Student Generating Incentive)

Section 270-050: School Capacity Standards (Multi Family Allowance)

Solar Energy Systems

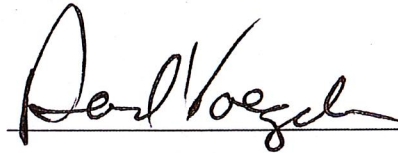
Section 335: Solar Energy Systems

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF OLDHAM,  
COMMONWEALTH OF KENTUCKY, THAT:

1) The attached language is to replace, amend or add the Sections and Divisions described above of the Oldham County Zoning Ordinance and Subdivision Regulations adopted by ordinance KOC 06-920-473, passed 12-19-2006; Ord. KOC 08-920-787, passed 10-21-2008; Ord. KOC 10-920-900, passed - -2010; Ord. KOC 10-920-873, passed 6-1-2010; Ord. KOC 11-920-054, passed 5-17-2011; Ord. KOC-16-920-345, passed 09-06-2016; Ord KOC-18-920-447, passed 03-20-2018); KOC-22-920-283 passed 2-15-2022.

This ordinance shall become effective upon its passage and advertisement according to law.

Dated this 26 day of June, 2023.



DAVID VOEGELE

Oldham County Judge/Executive

First Reading: 6/6/23

Second Reading: 6/20/23

ATTEST:



Tara Long

Oldham County Fiscal Court Clerk

**KOC 23-920-343**

**June 20, 2023**

**Oldham County Comprehensive Zoning Ordinance Text Amendments**

**Private Clubs & Event Venues**

Section 250-220: Private Clubs & Event Venues Including Swimming, Tennis, & Other Recreation Special Provisions

Section 260-340: Private Clubs & Event Venues Including Swimming, Tennis, & Other Recreation Conditional Use Standards

**Agritourism Buildings**

Section 250-210: Agritourism Buildings Special Provisions

Section 260-035: Agritourism Buildings Conditional Use Standards

**Golf Driving Ranges**

Section 260-210: Golf Driving Ranges Conditional Use Standards

**School Capacity Standards**

Section 270-050: School Capacity Standards (Non Student Generating Incentive)

Section 270-050: School Capacity Standards (Multi Family Allowance)

**Solar Energy Systems**

Section 335: Solar Energy Systems

**Private Clubs & Event Venues are a Permitted Use in the following zoning districts: O-1, O-2, C-N, C-1, C-2, C-3, C-4, I-1, I-2, IPD, and PRD.**

**Private Clubs & Event Venues are a Conditional Use in the following zoning districts: AG-1, AG-2, CO-1, R-1, R-1A, R-2, R-2A, R-3, R-4, and R-4A.**

**Sec. 250-220 Private Clubs & Event Venues Including Swimming, Tennis or Other Recreation**

1. All new buildings, structures, and facilities shall be at least thirty (30) feet from any property line.
2. Roads and parking shall be of a non-dusting, all-weather type.
3. Swimming pools shall be enclosed by a fence, or other protective device, at least six (6) feet in height prior to use.
4. Meet all landscaping requirements of Division 300 including Table 300.3 Planting Requirements.

**Sec. 260-340 Private Clubs & Event Venues Including Swimming, Tennis or Other Recreation**

1. All new buildings, structures, and facilities shall be at least thirty (30) feet from any property line.
2. Roads and parking shall be of a non-dusting, all-weather type.
3. Swimming pools shall be enclosed by a fence, or other protective device, at least six (6) feet in height prior to use.
4. Meet all landscaping requirements of Division 300 including Table 300.3 Planting Requirements.

**Division 420 Definitions**

Private Club - A building and/or property for the exclusive use by members and their guests for social, educational, or cultural activities. The facility can also include recreational features such as swimming pools and/or tennis courts but specifically excludes golf courses.

Event Venue - A building and/or property that is rented or hired for short term public or private events of an assembly nature such as wedding receptions, conferences, business meetings, reunions, and banquets.

**Agritourism Buildings are a Permitted Use in the following zoning districts: AG-2, O-1, O-2, C-N, C-1, C-2, C-3, C-4, I-1, I-2, IPD, and PRD.**

**Agritourism Buildings are a Conditional Use in the following zoning districts: AG-1, CO-1, R-1, R-1A, R-2, R-2A, R-3, R-4, and R-4A.**

## **Sec. 250-210 Agritourism Buildings**

The purpose of Agritourism Buildings is to allow the public to visit working farms or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation which allows means of earning supplemental income that can help preserve and sustain local farms.

Farm Tours (tourism conducted on a working farm or any other agricultural, horticultural or agribusiness operation where the working environment forms an agricultural product) are a permitted use in any zoning classification where agricultural uses are allowed.

Any agricultural structure that is altered from its original use to an assembly use group (as determined by the Kentucky Building Code) must obtain proper building, electrical and associated permits.

All Agritourism Buildings must follow the regulations outlined below:

1. Minimum lot size required shall be five (5) acres.
2. All structures shall be at least thirty (30) feet from all property lines.
3. Minimum parking requirements shall be one (1) 9'X18' parking space for each fifty (50) square feet of primary assembly area.
4. Shall be exempt from Section 280-150, Parking Lot Layout and Design, Item 2 Markings and Item 3 Surfacing and Maintenance.
5. Building Code Requirements:
  - A. The following are requirements under House Bill 360 that apply to agritourism and agritourism buildings in relation to the Kentucky Building Code:
    - i. Except as otherwise provided in this section, agritourism buildings defined in Item II shall comply with the Kentucky Building Code.
    - ii. An agritourism building, constructed prior to December 31, 2016, shall be exempt from the following requirements within the Kentucky Building Code:
      - a. An agritourism building built prior to December 31, 2016, shall not be required to comply with the seismic requirements within the Kentucky Building Code.

- b. If an agritourism building has a capacity of four hundred (400) persons or less or is six thousand (6,000) square feet or less, an agritourism building built prior to December 31, 2016 shall not require the services of an architect licensed by the Commonwealth of Kentucky.
- B. Occupant capacity is calculated as follows:
  - i. One (1) occupant per fifteen (15) square feet of primary assembly area with permanent seating (table and chairs).
  - ii. One (1) occupant per seven (7) square feet of open primary assembly area with no permanent seating (no table and chairs).
- C. Fire Suppression Requirements:
  - i. Assembly Use Group A-2: building has provisions for cooking food (commercial kitchen).
    - a. Sprinklers required if fire area exceeds 5,000 square feet or the occupant capacity is 300 or more.
  - ii. Assembly Use Group A-3: building does not have provision for cooking food.
    - a. Sprinklers required if fire area exceed 12,000 square feet or occupant capacity is 300 or more.

## **Sec. 260-035 Agritourism Buildings**

The purpose of Agritourism Buildings is to allow the public to visit working farms or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation which allows means of earning supplemental income that can help preserve and sustain local farms.

Farm Tours (tourism conducted on a working farm or any other agricultural, horticultural or agribusiness operation where the working environment forms an agricultural product) are a permitted use in any zoning classification where agricultural uses are allowed.

Any agricultural structure that is altered from its original use to an assembly use group (as determined by the Kentucky Building Code) must obtain proper building, electrical and associated permits.

All Agritourism Buildings must follow the regulations outlined below:

1. Minimum lot size required shall be five (5) acres.
2. All structures shall be at least thirty (30) feet from all property lines.
3. Minimum parking requirements shall be one (1) 9'X18' parking space for each fifty (50) square feet of primary assembly area.

4. Shall be exempt from Section 280-150, Parking Lot Layout and Design, Item 2 Markings and Item 3 Surfacing and Maintenance.
5. Building Code Requirements:
  - A. The following are requirements under House Bill 360 that apply to agritourism and agritourism buildings in relation to the Kentucky Building Code:
    - i. Except as otherwise provided in this section, agritourism buildings defined in Item II shall comply with the Kentucky Building Code.
    - ii. An agritourism building, constructed prior to December 31, 2016, shall be exempt from the following requirements within the Kentucky Building Code:
      - a. An agritourism building built prior to December 31, 2016, shall not be required to comply with the seismic requirements within the Kentucky Building Code.
      - b. If an agritourism building has a capacity of four hundred (400) persons or less or is six thousand (6,000) square feet or less, an agritourism building built prior to December 31, 2016 shall not require the services of an architect licensed by the Commonwealth of Kentucky.
  - B. Occupant capacity is calculated as follows:
    - i. One (1) occupant per fifteen (15) square feet of primary assembly area with permanent seating (table and chairs).
    - ii. One (1) occupant per seven (7) square feet of open primary assembly area with no permanent seating (no table and chairs).
  - C. Fire Suppression Requirements:
    - i. Assembly Use Group A-2: building has provisions for cooking food (commercial kitchen).
      - a. Sprinklers required if fire area exceeds 5,000 square feet or the occupant capacity is 300 or more.
    - ii. Assembly Use Group A-3: building does not have provision for cooking food.
      - a. Sprinklers required if fire area exceed 12,000 square feet or occupant capacity is 300 or more.

## **Sec. 260-210 Golf Driving Ranges**

1. Minimum lot size required shall be twenty (20) acres.
2. All building structures shall be at least thirty (30) feet from all property lines.
3. All drives and parking areas shall be of concrete, asphalt or paver blocks.
4. All driving ranges shall be an adequate distance from any street or highway.
5. Fences, planting, or sufficient areas shall be provided to ensure the safety and protection of person on all adjacent land.
6. Fences shall be a maximum height of sixty (60) feet. In no circumstances shall nets be used to fulfill the fencing requirement.
7. There shall be no commercial uses other than those related to the sale or rental of golf equipment, golf instruction, & apparel or food and beverage sales.
8. All lighting shall comply with Division 310 Lighting Regulations.

## **Division 420 Definitions**

Golf Course: A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may also include a clubhouse, restrooms, and shelters as an accessory use. All driving ranges must receive a conditional use permit even if affiliated with a golf course.

Golf Driving Range: An area equipped with distance markers, clubs, balls and tees for practicing golf and putting.

Miniature Golf: A theme-oriented recreational facility where a novelty version of golf is played with a putter and golf ball on a miniature course, typically with artificial playing surfaces, and include obstacles such as bridges and tunnels.

## **Sec. 270-050 School Capacity Standards**

### **Part 1. Purpose.**

The purpose of this section is to ensure that, to the maximum extent practical, approval of new residential development will be granted by the Commission only when it can reasonably be expected that adequate public school facilities will be available to accommodate such new development.

### **Part 2. School Capacity Consideration**

As part of the consideration for a major subdivision, available public school capacity shall be considered. School capacity inadequate to accommodate the number of students generated by a project or proposal may be considered grounds for denial of a subdivision plat as not being in compliance with these regulations and KRS 100.201(2).

### **Part 3. School Capacity defined/applied**

School capacity shall be quantified using figures, data, or other information provided by the Oldham County Board of Education, those figures, data, or other information in a form mutually agreed upon by the Commission and the Oldham County Board of Education. The form and method of arriving at the figures, data, or other information relating to school capacity shall be periodically reviewed (at least once per calendar year) for accuracy and relevancy by the staff of the Commission. As part of this review, the Commission may request from the Oldham County Board of Education its raw data and formula used to determine school capacity. The Commission through its staff may review this information to determine its accuracy, fairness, and comprehensiveness as well as review for other pertinent factors. The Commission may, based on this review and its results, decide to alter, amend, or substitute school capacity figures to be considered but must have a reasonable or generally accepted statistical basis upon which to do so.

### **Part 4. Students Generated defined/applied**

The Oldham County Board of Education shall provide the Commission such data as necessary to determine the average number of students generated per dwelling unit in a new development. This average shall be applied by the Commission to development proposals in order to determine the number of students on average to be generated by a development. That figure will be compared to school capacity or planned school capacity available to identify inadequacies. The form and method of arriving at the figures, data, or other information relating to students generated per dwelling shall be annually reviewed for accuracy and relevancy at a Planning Commission meeting by the end of each calendar year. As part of this review, the Commission may request from the Oldham County Board of Education its raw data and formula used to determine average students generated per dwelling. The Commission through its staff may review

this information to determine its accuracy, fairness, and comprehensiveness as well as review for other pertinent factors.

## **Part 5. Mitigation**

The Commission as part of its consideration of school capacity when evaluating a request to subdivide land for residential purposes may also consider the following mitigating factors potentially altering the overall impact of the proposed development on school capacity:

- a. The unique makeup of the residents occupying developments of the type proposed (e.g., a development targeted at retired individuals typically without resident school age children)
- b. Provision within the proposed development of a school site or other capital improvements as desired by the Oldham County Board of Education.
- c. Failure of the Oldham County Board of Education to provide any or all of the data necessary to administer this ordinance may suspend consideration of school capacity as a factor affecting the subdivision of property for residential purposes.
- d. Phasing: Oldham County Board of Education has adopted the Campus Capacity Worksheet which is a chart that averages the combined school capacity of the serving campus (campus being the elementary, middle and high school serving the proposed development) and applies a multiplier to calculate the number of dwelling units allowed per calendar year for the proposed development. Developments that include open space or mixed uses (non-residential and/or non-student generating uses) shall receive additional dwelling units per year based on a multiplier approved by the Oldham County Board of Education and accepted by the Commission. No development shall be granted more than 125 units per calendar year.

The form and method of arriving at the figures, data, or other information relating to the Campus Capacity Worksheet shall be annually reviewed for accuracy and relevancy at a Planning Commission meeting by the end of each calendar year. As part of this review, the Commission may request from the Oldham County Board of Education its raw data and formula used to determine the multiplier. The Commission through its staff may review this information to determine its accuracy, fairness, and comprehensiveness as well as review for other pertinent factors.

- The number of dwelling units allowed are cumulative on an annual basis per calendar year and begin at time of Record Plat recording.
- The allowable number of dwelling units will not be reduced as established by the binding element.

- The applicant can petition the Planning Commission for revision of the binding element if additional capacity becomes available.

For multi-family attached developments (greater than two (2) family buildings) the number of dwelling units allowed annually is set out in the chart below. The number of dwelling units allowed are cumulative on an annual basis and begin at time of Construction Plan Approval.

Number of Dwelling Units	Phasing in Years	Maximum Dwelling Units Per Year
1-75	1 year	75
76-150	2 years	75
151-225	3 years	75
226-300	4 years	75
301+	5 years	Agreed upon amount by Board of Education & Approved by the Planning Commission (not less than 75 units per year)

## **Division 335 Solar Energy Systems**

### **Section 335-010 Purpose and Intent**

The purpose of this section is to facilitate the siting, development, construction, installation, and decommissioning of solar energy systems (SESs) in Oldham County in a predictable manner that promotes and protects the safety, health, and welfare of the community. The requirements outlined in this section are intended to be supplemental to any safety, health, or environmental requirements of federal, state, or local laws, and regulations.

### **Section 335-020 Applicability**

1. This section applies to the siting, construction, installation, and decommissioning of any new SES within the jurisdiction of Oldham County. An SES in operation prior to adoption of this section, shall be considered to have legal nonconforming status in accordance with KRS 100.253.
2. The following are not subject to the regulations:
  - a. Modification to an existing SES that alone or in combination increases the total SES footprint by no more than 5% of the original footprint.
  - b. Routine maintenance and repair, including replacement of solar panels, not increasing the SES footprint.
3. Any Exempt SES shall provide the Planning Commission with information concerning service facilities which have been located on and relocated on private property in accordance with KRS 100.324(3).
4. An SES shall comply with all applicable federal, state, and local laws, regulations, and permitting and other requirements, and applicable building, fire, electrical, and plumbing codes.

### **Section 335-030 Definitions**

1. Exempt Solar Energy System (Exempt SES): SES that is a facility of a municipally owned electric system or public utility regulated by the Kentucky Public Service Commission or Federal Energy Regulatory Commission, which is exempt from planning and zoning requirements under KRS 100.324.
2. Farmland of Statewide Importance: a map unit identified by the Natural Resources

Conservation Service as including soils that nearly meet the requirements for prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods.

3. Footprint: Calculated by drawing a perimeter around the outermost SES panels and any equipment necessary for the equipment to function, such as transformers and inverters. The footprint does not include perimeter fencing or visual buffers, nor transmission lines or portions thereof that are required to connect the SES to a utility or customer outside the SES perimeter.
4. Ground Mounted Solar Energy System: SES that is structurally mounted to the ground and does not qualify as an Integrated SES.
5. Integrated Solar Energy System: 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.
6. Intermediate Scale Ground Mounted Energy System (Intermediate Scale SES): Ground Mounted SES with a Footprint of between 2,501 square feet and ten (10) acres.
7. Large Scale Ground Mounted Solar Energy System (Large Scale SES): Ground Mounted SES with a Footprint of more than ten (10) acres.
8. Prime Farmland: a map unit identified by the Natural Resources Conservation Service of the United States Department of Agriculture as having the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses.
9. Rooftop Solar Energy System: SES that is structurally mounted to the roof of a house, building, or other structure and does not qualify as an Integrated SES.
10. Small Scale Ground Mounted Energy System (Small Scale SES): Ground Mounted SES with a Footprint of less than 2,500 square feet.
11. Siting Board Regulated SES: a SES that constitutes a "merchant electric siting facility" under KRS 278.700(2), the construction and siting of which is subject to review and approval of the Kentucky State Board on Electric Generation and Transmission Siting. A merchant electric siting facility is an electricity generating facility or facilities that, together with all associated structures and facilities are capable of operating at an aggregate capacity of ten megawatts (10 MW) or more and sell the electricity produced in the wholesale market, at rates and charges not

regulated by the Kentucky Public Service Commission.

12. **Solar Energy System (SES):** a device, including its components and subsystems, that collects solar energy for electricity generation, consumption, or transmission, or for thermal applications.

### **Section 335-040 Allowed Uses and Required Approvals**

**P:** The SES is a use that is allowed in the district without the necessity of obtaining planning commission approval, provided that the applicable requirements below are met. A variance from any of the standards applicable to a SES may be obtained through the Board of Adjustments.

**PCA:** Planning Commission Approval required. The SES is allowed in the district subject to the requirements set forth below and only if the applicant first obtains approval by the Planning Commission. A variance from any of the standards applicable to a SES may be obtained through the Planning Commission.

<b>Accessory Use</b>				
Type	Residential	Commercial	Industrial	Agricultural
Integrated SES	P	P	P	P
Rooftop SES	P	P	P	P
Ground Mounted SES Small Scale*	P	P	P	P
Ground Mounted SES Intermediate Scale	PCA	PCA	PCA	PCA
Ground Mounted SES Large Scale	PCA	PCA	PCA	PCA

\*A Small-Scale Ground Mounted SES qualifies as an accessory use only if its area is less than 50% of the footprint of the primary structure.

<b>Primary Use</b>				
Type	Residential	Commercial	Industrial	Agricultural
Ground Mounted SES Small Scale	N/A	N/A	P	P
Ground Mounted SES Intermediate Scale	PCA	PCA	PCA	PCA
Ground Mounted SES Large Scale	PCA	PCA	PCA	PCA

### **Section 335-050 General Requirements Applicable to Integrated and Rooftop Solar Energy Systems**

1. Solar Access: Consistent with KRS 381.200(2), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for an Integrated or Rooftop SES. Such easement shall be recorded.
2. Tree Removal: The removal of trees or natural vegetation for an Integrated or Rooftop SES shall be limited to the extent practicable and shall comply with all the applicable local, state or federal requirements.
3. Height Restrictions: A rooftop SES shall conform to any height restrictions for roof-mounted mechanical devices or equipment for the applicable zoning district and may exceed the maximum permitted height for the structure type by no more than five (5) feet. A rooftop SES shall be positioned on the roof so as not to extend above or beyond the edge of any ridge, hip, valley, or eave, provided that where it is mounted on a sloped roof, the SES shall not vertically exceed the highest point of the roof to which it is attached by more than five (5) feet.
4. Lighting: Integrated and Rooftop SESs shall not be illuminated and shall be designed and installed to prevent off-site glare.
5. Historic Preservation: Where an integrated or rooftop SES is proposed to be installed on a property located within a historic district the proposed installation shall be coordinated with the historic district prior to applying for a permit.

### **Section 335-055 General Requirements Applicable to Residential Ground Mounted SESs**

1. Maximum Square Footage: SES area shall be less than 50% of the footprint of the primary structure.
2. Solar Access: Consistent with KRS 381.200(2), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for a Ground Mounted SES. Such easement shall be recorded.
3. Tree Removal: The removal of trees or natural vegetation shall be limited to the extent practicable and shall comply with all the applicable local, state or federal requirements.
4. Lighting: Residential Ground Mounted SESs shall be limited to typical, low-voltage residential landscape lighting and shall not trespass onto adjoining properties.

5. Height Requirements: Ground Mounted SESs shall not exceed ten (10) feet in height as measured from the highest natural grade below each solar panel. The height restriction includes any storage batteries, antennas or other structures constructed for the project. Any height variance must be approved by the Board of Adjustments.
6. Location: Residential Ground Mounted SESs shall be located in the rear or side yards.
7. Residential Ground Mounted Solar Energy Systems shall have the following setbacks from the property line for side & rear yards measured from the closer of the outer edge of the nearest panel and/or support structure.

Acreage Threshold	Required Setback (Feet)
up to 1.0 Acres	25 Feet
1.0 Acres to 3.0 Acres	50 Feet
3.0 Acres & Larger	100 Feet

8. Decommissioning: All structures and facilities associated with the SES shall be removed within six (6) months of the beginning of decommissioning. All materials shall be recycled or otherwise reused to the extent reasonably practicable, and the disturbed areas shall be reclaimed, revegetated, and restored consistent with the zoning classification of the property.

#### **Section 335-060 General Requirements Applicable to Non-Residential Ground Mounted SESs (Includes Intermediate and Large Scale SESs)**

1. Solar Access: Consistent with KRS 381.200(2), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for a Ground Mounted SES. Such easement shall be recorded.
2. Tree Removal: The removal of trees or natural vegetation for Non-Residential Ground Mounted SESs shall comply with all the applicable local, state or federal requirements.
3. Lighting: Shall be limited to the minimum necessary for safe operation, and shall be directed downward, incorporate full cut-off features, and incorporate motion sensors where feasible. Lighting shall be designed to avoid light trespass. Nothing in this regulation is intended to preclude installation of lighting required by the Federal Aviation Administration.
4. Height Requirements: Shall not exceed ten (10) feet in height as measured from

the highest natural grade below each solar panel. The height restriction excludes utility poles, storage batteries, substation structures, and antennas constructed for the project. Any height variance must be approved by the Planning Commission.

5. Setbacks: Non-Residential, Intermediate or Large-Scale Ground Mounted SESs shall have the following setbacks from the property line for front, rear and side yards measured from the closer of the outer edge of the nearest panel or perimeter fencing:

Zoning or Use	Required Setback (feet)
Residential*	50 Feet
Agricultural/Conservation	50 Feet
Non-Residential	50 Feet
Public Road Right-of-Way	50 Feet from Centerline

\*Setback to a residence, other than that on which the Ground Mounted SES is to be installed, shall be 100 feet.

- a. Setbacks are not required where the property line is shared by two or more participating landowners.
  - b. Setback variances can be requested to the Planning Commission.
6. Screening. Non-Residential, Intermediate or Large-Scale Ground Mounted SESs shall be effectively screened and existing buffers along an SES perimeter shall be preserved when reasonably practicable.
  - a. Ground Mounted SESs approved by the Commission shall have or install a visual buffer of natural vegetation, plantings, earth berms, and/or fencing that will provide an effective visual and lighting screen between the SES and adjoining properties.

Land Use	Minimum Width of LBA	Minimum Screen Height	Minimum Number of Trees
Adjacent to Residential, Agricultural or Conservation	50 feet	7 foot high continuous screen	1 large tree per 40 linear feet
Adjacent to Commercial or Office or other Non-Residential Use	30 feet	5 foot high continuous screen	1 large or medium tree per 50 linear feet

**7. Protection of Farmland and Revegetation of Disturbed Areas:**

- a. Compaction of soil associated with the location of roads and installation staging areas for Intermediate and Large-Scale Ground Mounted SES on land zoned for agricultural use shall be minimized to the extent possible. Compaction of soil associated with the location of roads and installation staging areas for all Ground Mounted SES on land zoned for agricultural use that are classified either as prime farmland or farmland of statewide importance shall be avoided to the extent possible, and the soils shall be de-compacted as part of the decommissioning process.
  - b. Upon completion of construction and installation of the Intermediate and Large-Scale Ground Mounted SES, all temporary roads constructed by the applicant shall be removed, and all disturbed areas shall be graded and reseeded with native vegetation in order to establish an effective ground cover and to minimize erosion and sedimentation.
8. Signage: A Ground Mounted SES may include such signage as is required by law to provide safety information, and other signage as may be allowed under Division 290.
9. Decommissioning. Other than as specifically approved by the Planning Commission decommissioning shall begin no later than twelve (12) months after a Ground Mounted SES has ceased to generate electricity or thermal energy:
- a. If the Ground Mounted SES was a permitted use and did not require Planning Commission approval, all structures and facilities associated with the SES shall be removed within six (6) months of the beginning of decommissioning. All materials shall be recycled or otherwise reused to the extent reasonably practicable, and the disturbed areas shall be reclaimed, revegetated, and restored consistent with the zoning classification of the property.
  - b. If the Ground Mounted SES was approved by the Planning Commission, the SES shall be decommissioned according to the decommissioning plan approved at the Planning Commission public hearing.

**Section 335-070 Solar Energy Permit Application Requirements**

1. An SES for residential or non-residential purposes that does not require Planning Commission approval shall require a building permit and electrical permit. Required permit information shall be listed on the application.
2. An SES requiring approval by the Planning Commission shall include the following information:

1. Name, address, telephone number, and email address (if available) of the applicant, the project owner, and the project operator.
2. The address of the property on which the SES will be located and the property owner's name, address, telephone number, and email address if available.
3. Copy of current deed or lease agreement.
4. A topographic map that depicts vegetative cover, watersheds, floodplains, and other geographic information about the property and surrounding area.
5. A description of the project, including the maximum number of modules, mounting type (fixed-tilt or tracking), system height, system capacity, total land area covered by the system, and information about all associated structures or facilities such as transformers, substations, feeder lines, and battery storage.
6. A site plan including property lines, zoning classification and uses of the property and all adjacent properties, existing buildings and proposed structures, the proposed location of the solar equipment, transmission lines, any associated structures and facilities, and substations. The conceptual site plan shall also identify existing and proposed temporary or permanent roads, drives, and parking, fencing or other methods to ensure public safety.
7. A landscape plan demonstrating how proposed visual buffers will effectively screen the proposed SES from adjacent properties zoned for residential use.
8. A map from the Natural Resources Conservation Service identifying prime farmland and farmland of statewide importance (if in a district zoned as agricultural), documentation from the U.S. Fish and Wildlife Service regarding the presence any identified critical habitat for rare or endangered federal or state species. The application shall also contain a Federal Emergency Management Agency map delineating floodplain, shall include evidence of any water quality or stormwater permit needed for the project,<sup>9</sup> and shall contain a letter from the State Historic Preservation Office regarding known archaeological or cultural resources listed or eligible for listing on the National Register.
9. Information demonstrating that approval of the SES will not result in any disproportionate individual or cumulative environmental burden on low-income communities or communities of color.
10. A decommissioning plan prepared by a registered professional engineer, and updated every seven (7) years, containing the following:
  - (a) The anticipated life of the project and defined conditions upon which decommissioning will be initiated.
  - (b) The estimated decommissioning cost, including removal of the SES and related foundations, pads, underground collector lines and roads, and the salvage value of any equipment in current dollars and the calculations supporting the decommissioning estimate. The estimated salvage value of the material using current, publicly available material indices and/or firm quotes from a decommissioning or recycling company experienced in the

- decommissioning of SES, shall be provided. The Planning Commission shall consider the salvage value identified in computing the amount, if any, of financial assurance required under subsection e.
- (c) The manner in which the project will be decommissioned, including provision and a timetable for the removal of all structures and foundations, and for the revegetation and restoration of the property to its original condition or a condition compatible with the zoning of the parcel(s).
  - (d) The party responsible for decommissioning.
  - (e) A performance bond, letter of credit, or other security acceptable to the Commission, payable to Oldham County Fiscal Court, sufficient to cover the net costs identified in subsection 10b and to assure that decommissioning of the site can be achieved by a third party in the event that a permittee defaults in that obligation, which financial assurance shall be provided prior to commencement of construction.
  - (f) A copy of any lease containing specific agreements regarding decommissioning with the landowner.
- 11. Proof of adequate casualty and liability insurance covering installation and operation of the SES.
  - 12. A description of the measures that will be taken to minimize erosion and sedimentation, and to promptly stabilize and revegetate disturbed areas with native vegetation.
  - 13. Where the applicant for a Solar Energy System Permit is also seeking a construction certification pursuant to KRS 278.700 – 278.716, the applicant may submit a copy of a complete state siting board application and site assessment report meeting the requirements of KRS 278.706 and 278.7008 in lieu of the above requirements of Section 335-070 (2)1-8.
3. A Solar Energy System permit granted by the Planning Commission shall include, at a minimum, all applicable requirements of Items 6 and 7 of this section, and any additional conditions deemed by the Commission necessary or appropriate pursuant to KRS 100.237 to allow the proper integration of the proposed SES into the zone and location in which it is proposed.

### **Section 335-080 Public Notice and Public Comment**

- 1. A statement that every person who, according to the records of the Property Valuation Administrator, owns property within five hundred (500) feet of the proposed SES or property contiguous to the site upon the SES is proposed to be constructed, has been:
  - a. Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction.
  - b. Given the telephone number and address of the local planning commission; and

- c. Informed of his or her right to participate in the Commission's proceedings on the application.
- 2. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners.
- 3. A statement that the Chief Executive Officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction.
- 4. A copy of the notice sent to the Chief Executive Officer of the affected local governments and their legislative bodies.
- 5. A statement that:
  - a. A written notice, of durable material at least two feet by four feet in size, stating the "[Name of Applicant] proposed to construct a solar energy system on this site" and including the address and telephone numbers of the applicant and the Commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application, and
  - b. A written notice, at least two feet by four feet in size, stating that "[Name of Applicant] proposes to construct a solar energy system near this site" and including the address and telephone numbers of the applicant and the Commission, has been posted on the public road nearest the site.
- 6. A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed.