ORDINANCE NO. _____ - 2026

AN ORDINANCE AMENDING ARTICLE 31 OF THE LEXINGTON-FAYETTE COUNTY ZONING ORDINANCE, RELATING TO SOLAR ENERGY SYSTEMS, AS FOLLOWS: AMENDING SECTION 31-2 TO REDEFINE THE FOOTPRINT OF SOLAR ENERGY SYSTEMS (SES) AND PROVIDE NEW DEFINITIONS RELATING TO FARMLAND OF STATEWIDE IMPORTANCE, PRIME FARMLAND, AND BROWNFIELD PROPERTY; AMENDING SECTION 31-4 TO EXPAND THE ZONES WHERE SES IS AN ALLOWABLE USE; AMENDING SECTION 31-6 TO PROVIDE ADDITIONAL GUIDANCE REGARDING THE SITING, SCREENING, USAGE, AND DECOMMISSIONING OF GROUND MOUNTED SES, TO ENCOURAGE COMMUNITY BENEFITS PLANS RELATING THERETO, AND TO FURTHER PROVIDE SPECIFIC REQUIREMENTS FOR ANY LARGE SCALE SES LOCATED IN CERTAIN AGRICULTURAL ZONES, INCLUDING REQUIREMENTS FOR A LAND MANAGEMENT PLAN, VEGETATIVE COVER, STORMWATER MANAGEMENT, AND AGRICULTURAL PRODUCTION REQUIREMENTS; AMENDING SECTION 31-7 TO CLARIFY CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS AND TO PROVIDE CONSIDERATIONS FOR THE BOARD OF ADJUSTMENT WHEN REVIEWING CONDITIONAL USE PERMITS FOR SES; AND CREATING SECTION 31-8 TO PROVIDE AN EXCEPTION FOR GROUND MOUNTED SES ON BROWNFIELD PROPERTIES. (URBAN COUNTY COUNCIL).

WHEREAS, at a Public Hearing held on July 9, 2026, a proposed text amendment to Article 31, relating to Solar Energy Systems, was presented to the Urban County Planning Commission; said Commission recommending approval of its alternative text amendment by a vote of 9-0, and the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference; and

WHEREAS, the Urban County Council agrees with some of the recommendations of the Planning Commission and disagrees with others, and desires to approve amendments to Article 31 in an alternative form; and

WHEREAS, the Urban County Council finds that Intermediate and Large Scale Ground Mounted SES should be allowable as conditional uses in agricultural zones and desires to give guidance to the Board of Adjustment in its consideration of applications requesting conditional use permits for Ground Mounted SES.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 31-2(c) of the Zoning Ordinance be and hereby is amended, in pertinent part, and Sections 31-2(e), (f), and (g) be and hereby are created, to read as follows:

Sec. 31-2. Definitions

(c) *Footprint* of the SES is calculated by drawing a perimeter around the outermost SES panels, including any fencing or visual buffers, and any equipment necessary for the equipment to function, the transmission infrastructure,

transformers, inverters, and co-located battery storage. For Large Scale Ground Mounted SES, the Footprint shall be calculated by using the boundary of property owned or leased by a solar developer, inclusive of all of the above.
…..

e) *Farmland of Statewide Importance* means 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.

f) *Prime Farmland* means 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 to these uses.

g) *Brownfield Property* is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence of a potentially hazardous material, substance, or contaminant including but not limited to potentially contaminated lands, landfills, and mine sites.

Section 2 – That Section 31-4 of the Zoning Ordinance be and hereby is amended, in pertinent part, to read as follows:

Sec. 31-4. Permitted Uses, Accessory Uses, and Conditional Uses

P: Principal Use. The SES is a use that is permitted as a principal use in a specified zone, subject to the requirements contained herein.

CUP: Conditional Use Permit required. The SES is permitted as a conditional use in a specified zone subject to the review of the Board of Adjustment and the requirements contained herein.

A: Accessory Use. Within the urban zones, Ground Mounted SES may only qualify as accessory if the total area of the system is less than fifty (50) percent of the floor area of the principal structures on the lot. Within the agricultural zones, accessory Ground Mounted SES shall only be allowed if the total area of the system is less than fifty (50%) percent of the area of the property.

X: Prohibited

With the exception of sites utilizing the Brownfield exemption outlined in Section 31-8, the following table outlines the allowance of Solar Energy System uses by zone.

ZONES	**R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, M-1P**	**B-1, B-2, B-2A, B-2B, B-3, B-5P, B-6P, P-1, P-2, CC**	**B-4, I-1, I-2, ED**	**A-B, A-N**	**A-R, A-U**
Integrated SES	A	A	A	A	A
Rooftop	A	A	A	A	A
GROUND MOUNTED SES					
Small Scale	A	A	P	A	A
Intermediate Scale	X	A	P	CUP	CUP

Large Scale	X	X	CUP	X	CUP

Section 3 – That Sections 31-6(c)(1) and (2), (d), (f), and (g), and (h) of the Zoning Ordinance be and hereby are amended, in pertinent part, that a new Section 31(i) be and hereby is created, and that the existing Section 31(i) be and hereby is sequentially renumbered as Section 31(j) and be and hereby is further amended, all to read as follows:

Sec. 31-6. General Requirements Applicable to Ground Mounted SESs

c) *Siting Restrictions for Ground Mounted SES*.

1) An Intermediate or Large Scale Ground Mounted SES shall be located at least fifty (50)-feet from the property line of any property located within an agricultural or residential zone, at least thirty (30) feet from the property line of any property zoned for commercial, business, industrial, office, or mixed use, and at least fifty (50) feet from the centerline of any public road. The distance shall be measured from the property to the nearest panel, and fencing may be installed within the setback.
2) An Intermediate or Large Scale Ground Mounted SES shall be located no closer than one hundred (100) feet from a residence located on a property other than that on which the Ground Mounted SES is to be installed. The distance shall be measured from the property to the nearest panel and fencing may be installed within the setback. ….

d) *Screening*. Ground Mounted SESs approved as a conditional use or those utilizing the brownfield exemption in Section 31-8 below shall be screened as per Article 18-3(a)(1)(6). For SES approved as a conditional use, the Board of Adjustment may modify the required screening as needed in order to ensure a reasonable visual buffer is provided.

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f) *Ground Cover:* Ground Mounted Solar Energy Systems shall utilize vegetative ground cover underneath the panels, and the project area must contain a minimum of eighty-five percent (85%) vegetative coverage.

g) *Maximum Land Utilization.* No more than one percent (1%) of the land in Fayette County can be used for Large Scale Ground Mounted Solar Energy Systems, in the Agricultural zones.

h) For any *Large Scale SES located in an A-R or A-U zone*,

1) There shall be a vegetative cover requirement, and applicant shall provide to the Directors of the Division of Planning, Building Inspection, and Environmental Services, and the authorized Lexington-Fayette Urban County Government, a Land Management Plan which shall be reviewed and updated, if appropriate, every five (5) years at the same time as the review of the Decommissioning Plan.

A Land Management Plan shall include: baseline soil conditions, periodic evaluation of soil conditions, pasture and other ground cover composition, fertilization, pest control, livestock utilization, soil compaction, minimization for staging areas, the decompaction and restoration of all temporary roads and installation staging areas, fencing, and access control.

The Land Management Plan shall also include a description of the measures that will be taken to minimize erosion and sedimentation, and

to promptly stabilize and revegetate any disturbed areas with native vegetation.

2) The provisions of the LFUCG Stormwater Manual shall apply. Construction of SES within the Royal Spring Aquifer basis should be consistent with the objectives contained in the Cane Run and Royal Spring Watershed Plan – 2013 and incorporate, when appropriate, project review comments/recommendations received from the Royal Spring wellhead protection committee.

3) The property owners, or their lessee, must maintain agricultural production on the subject site, as defined in the Rural Land Management Code of Ordinances, Section 26-1. A full description of the agricultural production carried out on the property including type and quality of crops, number of livestock, and acreage of land leased or used from others for agricultural production shall be submitted for review by the Rural Land staff or their designee. An agreement must be in place to allow Rural Land Staff or their designee to inspect the land and structure at least once annually in order to ascertain whether there is compliance with this condition, similar to the inspection process outlined in Code of Ordinances Section 26-17 for conservation easements.

4) A land conservation plan and/or water quality plan shall be approved by the local soil conservation district and shall be implemented according to the approved schedule.

i) *Community Benefits Plan.* The applicant may enter into a Community Benefits Plan with the LFUCG or one or more community-based organizations within Lexington Fayette-County.

1) The community benefits plan shall prioritize alleviating energy costs to low-income households.

2) The suggested community benefits plan amount should align with fair-market investment standards and be provided for no less than twenty (20) years, unless the total investment is provided upfront. The suggested minimum contribution is $750/MWdc of solar array capacity.

3) *Form and Content of a Community Benefits Plan.* Should the applicant elect to execute one or more Community Benefits Plans within Lexington-Fayette County for the purpose of demonstrating the community benefits promoted by the proposal and elicit the support of community-based organizations for the proposal, such plan(s) may address, but shall not be limited to the following recognized community benefits:

(a) Workforce Development: The plan(s) may describe how the proposal promotes workforce development in the community, including the creation of jobs, collaboration with local workforce partners, and shall give priority in any workforce development initiatives to residents of Lexington-Fayette County.

(b) Developer Community Fund: Appropriate Community Fund purposes may include, but are not limited to, providing relief from high energy costs to low-income households; supporting environmental restoration and climate resiliency efforts; funding local agricultural programs; providing community education opportunities; and promoting health, welfare, well-being, and economic livelihood of local communities.

4) The community benefits plan must be in compliance with all local, state, and federal codes, statutes, and regulations.

j) *Decommissioning*. Whenever an application for an intermediate or large scale ground mounted SES is submitted for review, such application shall include a decommissioning plan that shall describe how the use will be decommissioned and dismantled following the discontinuance of the use. A SES shall be considered discontinued after six months of no energy production. Such a plan shall be reviewed and updated every five (5) years and contain the following:

1) The anticipated life of the project and defined conditions upon which decommissioning will be initiated;

2) 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 Board of Adjustment or other authority having jurisdiction shall consider the salvage value identified in computing the amount, if any, of financial assurance required under subsection 5 below;

3) For all Ground Mounted SES, all structures and facilities, including foundations and conduit, 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;

4) The party responsible for decommissioning;

5) A performance bond, letter of credit, or other financial assurance sufficient to cover the net costs identified in subsection F.2 section (j)(2) and to assure that decommissioning 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. The amount of the proposed bond or similar security shall be determined by an independent, licensed engineer. The proposed amount of the bond or similar security shall be the net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value of the SES's components.

Section 4 – That Sections 31-7(a)(8) and (a)(10) of the Zoning Ordinance be and hereby are amended, in pertinent part, that Section 31-7(a)(12) be and hereby is deleted and replaced in its entirety, and that Sections 31-7(a)(13) and (a)(14), and Section 31-7(b) be and hereby are created, to read as follows:

Sec. 31-7. Conditional Use Permit Application Requirements

a) Applications for an SES requiring a conditional use permit shall include the following information:

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8) A map from the Natural Resources Conservation Service identifying prime farmland and farmland of statewide, documentation from the U.S. Fish and Wildlife Service regarding the presence of any identified critical habitat for rare or endangered federal or state species. The application shall also contain a Federal Emergency Management Agency map delineating floodplains, shall include evidence of any water quality or stormwater permit needed for the project, 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

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10) The Board shall consider the impact of the proposal on the existing soils and topography as well as the compatibility of the proposed SESs with adjacent land uses. Developments should work with the existing topography, with grading, compaction, and tree removal minimized to the extent possible. When grading is approved, topsoil shall be retained on-site and re-established as a part of the decommissioning plan.

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12) For conditional use permits for Large Scale SES, applicants may provide the Board of Adjustment with information pertaining to any Community Benefits Plans (CBP) or other binding agreements that they have entered into related to their proposal.

13) For conditional use permits for Large Scale SES within an agricultural zone, a written report from Rural Land Staff or their designee shall be included assessing agricultural production on the site, along with an agreement for Rural Land Staff to inspect land and structures outlined above in Section 31-6(h)(3). The report shall include, but is not limited to: quality of soils, farm activity, agricultural improvements, environmentally sensitive areas, natural protected areas, and historical/cultural resources as defined in the Rural Land Management Code of Ordinance, Section 26-10. It may also include proximity to nearby property protected with conservation easements or with solar/utility uses.

14) If the SES will include a battery storage system (BESS), the application shall include a hazard assessment regarding the potential risks associated with the proposed battery storage. The assessment shall include a clarification that the BESS conforms to NFPA 1: Fire Code, NFPA 70: National Electric Code, NFPA 855: Standard for the Installation of Stationary Energy Storage Systems.

b) All dimensional standards, height restrictions, lighting, farmland conservation, and setbacks, and other requirements for siting, construction, operation, and decommissioning of Small, Intermediate, or Large Scale Ground Mounted SES required to obtain a Conditional Use Permit pursuant to this ordinance, shall be applicable to any battery energy storage (BESS) proposed to be sited and located in conjunction with the ground mounted system.

Section 5 – That Section 31-8 of the Zoning Ordinance be and hereby is created, to read as follows:

Sec. 31-8. Exception for Brownfield properties

a) Ground Mounted Solar Energy Systems shall be permitted within any zone if the project is located entirely within the boundaries of an identified Brownfield, including but not limited to potentially contaminated land, landfills, and mine sites.

b) Applicants seeking a Brownfield Exception must provide one of the following:

1) An Environmental Site Assessment conducted by a Qualified Environmental Professional (QEP) to determine if the site meets the criteria for a brownfield property.

2) Formal state or federal certification confirming the property’s status as a brownfield.

Section 6 – That if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 7 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

_____
MAYOR

ATTEST:

_____
CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:

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