

**COMMONWEALTH OF KENTUCKY
COUNTY OF HENDERSON**

ORDINANCE NUMBER 26-03

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ORDINANCE AMENDING THE HENDERSON COUNTY ZONING ORDINANCE (FOUND IN THE HENDERSON COUNTY CODE OF ORDINANCES IN APPENDIX A THEREOF) TO INSTITUTE A MORATORIUM ON TIER 2 BESS SYSTEMS, AS RECOMMENDED BY THE HENDERSON CITY-COUNTY PLANNING COMMISSION (HCCPC) AFTER PUBLIC HEARING CONDUCTED IN COMPLIANCE WITH K.R.S. 100.211

WHEREAS, Chapter 100 of the Kentucky Revised Statutes provides for the adoption of zoning text and maps as well as providing for amendments; and

WHEREAS, the County of Henderson and the Henderson City-County Planning Commission (HCCPC) having recognized the need for zoning regulations that promote the public health, safety, morals and general welfare of the community, and facilitate orderly and harmonious development and the visual character of the community, by enacting and amending the Henderson County Code of Ordinances Appendix A – Zoning, which is incorporated into said Code; and

WHEREAS, the Henderson Fiscal Court previously generated proposed amended text for Battery Energy Storage Systems (BESS) pursuant to KRS 100.211 and other applicable law and forwarded said text to the Henderson City-County Planning Commission for hearing; and

WHEREAS, the Henderson City-County Planning Commission conducted a public hearing thereon on March 3, 2026 and HCCPC provided its findings of fact and recommendation to the Henderson Fiscal Court by letter dated April 9, 2026; and

WHEREAS, the Henderson Fiscal Court voted at its regular meeting on April 14, 2026 to accept the recommendation of HCCPC and to incorporate said recommendations into its code of ordinances pursuant to the language provided therein; and

WHEREAS, in conformity with the HCCPC recommendation, the Henderson County Fiscal Court deems it in the best interest of the residents of Henderson County for both the Fiscal Court and the Henderson City-County Planning Commission (HCCPC) to further analyze and study the issues presented by Tier 2 BESS installations and begin a process to review potential amendments to the zoning ordinance to strengthen the public protection and address public concerns;

WHEREAS, the Henderson Fiscal Court accepts the HCCPC Findings of Fact in this matter which state that additional time is needed for the following reasons: the county may benefit from reviewing model ordinances and best practices from other jurisdictions; the technology and chemistry associated with BESS facilities continue to develop; additional expert input may assist the county in evaluating fire suppression, safety, and potential environmental or toxicological issues; and additional time would allow more deliberate consideration of possible revisions to the current ordinance;

WHEREAS, the Henderson Fiscal Court accepts the recommendation of HCCPC and deems it in the best interest of the residents of Henderson County to institute the recommended two (2) year moratorium on the filing, processing, review, and acceptance of all applications for all Tier 2 BESS installations by the HCCPC and the Henderson County Board of Zoning Adjustment (HCBOZA) in order to ensure the public health, safety, and general welfare and to provide sufficient time for the analysis and careful consideration of the impact of Tier 2 BESS installations and to provide sufficient time for such considerations to be incorporated into revisions to the Henderson City-County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED and ENACTED by the Fiscal Court of the County of Henderson, of the Commonwealth of Kentucky, as follows:

1. Appendix A Zoning of the Henderson County Zoning Ordinance is hereby amended by making the following amendments with deletions in bold strikethrough and insertions in bold underline:

A. Article XXXII- Battery Energy Storage Systems (BESS)

Add §32.06:

MORATORIUM: The remainder of this Zoning Ordinance and all other ordinances notwithstanding, there is hereby imposed a moratorium on the filing, processing, review, and acceptance by the Henderson Fiscal Court; the Henderson City-County Planning Commission (HCCPC); Henderson County Codes Administrator; the Henderson County Board of Zoning Adjustment (HCBOZA); or any other department, subdivision, agency, board, or commission of Henderson County government of any and all applications for rezoning, conditional use permits, or other types of applications for Tier 2 BESS, BESS projects, and BESS installations. This moratorium shall remain in effect until two (2) years after this Ordinance amending the Henderson County Zoning Ordinance adding a new section entitled Article 32.06-Moratorium by

the Henderson County Fiscal Court or until such time as amendments to this Article, if any, are approved by the Henderson County Fiscal Court, whichever comes first, unless such Moratorium repealed or extended.

2. All or parts of Ordinances in conflict herein are repealed to the extent of such conflict.
3. The provisions of this ordinance are severable and, if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.
4. This Ordinance shall become effective upon its passage and advertisement according to law.

On first reading of the foregoing Ordinance, it was moved by Magistrate Tompkins, seconded by Magistrate Southard, that the Ordinance be adopted on its first reading this April 28, 2026.

WHEREUPON, the vote was called.

Upon roll call the vote stood:

Magistrate Berry	<u>AYE</u>
Magistrate Southard	<u>AYE</u>
Magistrate Tompkins	<u>AYE</u>
Magistrate Puttman	<u>AYE</u>
Magistrate Starks	<u>AYE</u>

WHEREUPON, County Judge-Executive Brad Schneider declared the Ordinance adopted on its first reading and ordered that the same be published in summary form and presented for second reading on May 12, 2026, at the regular meeting of Fiscal Court.

On second reading of the foregoing Ordinance, it was moved by Magistrate _____, seconded by Magistrate _____, that the Ordinance be adopted.

WHEREUPON, the vote was called.

Upon roll call the vote stood:

Magistrate Berry	_____
Magistrate Southard	_____
Magistrate Tompkins	_____
Magistrate Puttman	_____
Magistrate Starks	_____

WHEREUPON, County Judge-Executive Brad Schneider declared the Ordinance adopted on its second reading, affixed his signature and the date thereto and declared that the same be recorded.

APPROVED this the _____ day of _____, 2026.

ATTEST:

Brad Schneider
Henderson County Judge-Executive

Angela Comer
Henderson Fiscal Court Clerk