

COURT ORDER # 41791

RESOLUTION REQUIRING ALL BATTERY ENERGY STORAGE SYSTEM (BESS) DEVELOPERS TO PROVIDE DOCUMENTATION DEMONSTRATING COMPLIANCE WITH APPLICABLE FIRE CODES, SAFETY STANDARDS, CRITICAL INFRASTRUCTURE SECURITY REQUIREMENTS, AND OTHER RELATED STATE LAWS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Kerr County Commissioners Court (the “Commissioners Court”) is charged with protecting the health, safety, and welfare of the residents of Kerr County (the “County”); and

WHEREAS, the Commissioners Court has not adopted a county fire code; and

WHEREAS, Texas Local Government Code 352.016(b) provides that in the absence of a county fire code, the county fire marshal may conduct an inspection using any nationally recognized code or standard adopted by the state; and

WHEREAS, Texas Local Government Code 352.016(b-1) provides that in the interest of safety and fire protection, the county fire marshal shall, if required, and may, if requested, review the plans for a business, single-family residence, multi-family dwelling, or commercial property to evaluate fire or life safety hazards; and

WHEREAS, the State Fire Marshal’s Office currently applies codes promulgated by the National Fire Protection Association (“NFPA”), including the 2021 edition of NFPA 1, Fire Code; the 2021 edition of NFPA 101, Life Safety Code; and the 2020 edition of NFPA 855, Standard for the Installation of Stationary Energy Storage Systems; and

WHEREAS, Section 3.2.2 of NFPA 855 defines the “Authority Having Jurisdiction” (“AHJ”) as an organization, office, or individual responsible for enforcing the requirements of a code or standard or approving equipment, materials, installations, or procedures; and

WHEREAS, Section 52.1.1 of the 2021 NFPA 1 provides that energy storage systems having an aggregate capacity exceeding the threshold quantities established in Table 1.3 of NFPA 855 shall comply with Chapter 52, which further requires in Section 52.1.2.2 that facility plans be submitted and approved by the AHJ prior to installation of such systems; and

WHEREAS, Section 52.1.2.3 of the 2021 NFPA 1 Fire Code requires that construction documentation include the materials specified in Section 4.1.2.1 of NFPA 855, which sets forth specific requirements regarding the submission of plans, specifications, and related documentation concerning the design, installation, commissioning, and operation of energy storage systems; and

WHEREAS, Section 4.1.2.1.3 of NFPA 855 further requires submission to the AHJ of test data, evaluation information, and engineering calculations where required by the standard; and

WHEREAS, Chapter 187 of the Texas Utilities Code requires battery energy storage facilities to comply with state-adopted fire safety standards based on UL 9540A and NFPA 855 and authorizes counties to request independent third-party evaluations of facility design, installation, and safety to ensure compliance with applicable regulations at the operator’s expense; and

WHEREAS, various state laws, executive orders, and standards address critical infrastructure concerns with foreign-owned or -controlled entities or technologies, including Chapter 2275 of the Texas Government Code, which restricts contracts and arrangements involving critical infrastructure; Chapter 117 of the Texas Business and Commerce Code, which prohibits certain foreign-controlled entities from accessing critical infrastructure and authorizes the imposition of penalties by state authorities for violations; Executive Orders GA-48, which direct the protection of critical infrastructure and establish restrictions relating to prohibited technologies and foreign-adversary equipment in energy and infrastructure systems; and the Governor's prohibited technologies list, which includes certain manufacturers determined to present security risks; and

WHEREAS, the Commissioners Court finds that large-scale battery energy storage system facilities present unique fire, environmental, emergency response, and infrastructure security considerations requiring detailed technical review and continuing oversight, and it hereby adopts this resolution to ensure that all proposed Battery Energy Storage System Projects comply with all applicable standards and mitigates all safety, environmental, and infrastructure considerations in the course of its development and operation.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF KERR COUNTY, TEXAS, THAT:

**Section 1.
Findings Adopted**

The foregoing recitals and findings are adopted as findings of fact of the Commissioners Court.

**Section 2.
Definitions**

For purposes of this Resolution, the following terms shall have the meanings set forth below:

"Authority Having Jurisdiction" or "AHJ" means the Commissioners Court of Kerr County, Texas, together with its consultants, inspectors, engineers, officials, or other designees, as authorized to receive and review documentation demonstrating compliance with applicable codes, standards, and laws in connection with a Battery Energy Storage System Project.

"Battery Energy Storage System Project" or "Project" means any proposed or existing installation of one or more battery energy storage systems within Kerr County, Texas, having an aggregate capacity exceeding the threshold quantities established in Table 1.3 of NFPA 855.

"Developer" means any person, entity, or organization, including any owner, operator, applicant, contractor, agent, representative, affiliate, subsidiary, successor, or assign, proposing to site, construct, install, commission, operate, or maintain a Battery Energy Storage System Project within Kerr County, Texas.

**Section 3.
Submission of Plans and Specifications Required Prior to Construction**

Pursuant to all applicable regulations including Section 52.1.2.2 of the 2021 NFPA 1, Section 4.1.2.1 of NFPA 855, NFPA 101, and Chapter 187 of the Texas Utilities Code, the Project developer, together with its agents, representatives, successors, subsidiaries, and assigns (collectively, the "Developer"), shall submit to the AHJ documentation consistent with Section 4.1.2.1 of NFPA 855, including, at minimum:

1. Location and layout diagrams of all battery energy storage system installations and associated equipment;
2. Details of fire-resistance-rated assemblies and separation distances relied upon in connection with the installation;
3. Manufacturer specifications, ratings, and listings for all energy storage system components;
4. Descriptions of energy storage management systems and their operation;
5. Quantities and types of energy storage system units;
6. Location and content of required safety and hazard signage;
7. Details of fire suppression, fire detection, smoke detection, gas detection, ventilation, thermal management, exhaust, and deflagration venting systems, where applicable; and,
8. Structural and support arrangements associated with the installation, including anchoring and structural considerations where applicable.

As required by Section 52.1.2.2 of the 2021 NFPA 1 and consistent with the authority granted to counties under Chapter 187 of the Texas Utilities Code to ensure compliance with state-adopted fire safety standards, no installation, construction, or commissioning of battery energy storage system equipment shall proceed within Kerr County until the foregoing documentation has been submitted to and approved by the AHJ.

Section 4. Test Data and Engineering Analysis

The Developer shall also provide documentation consistent with Section 4.1.2.1.3 of NFPA 855, including:

1. Large-scale fire test data where required;
2. Hazard mitigation analysis;
3. Calculations or modeling demonstrating compliance with applicable explosion prevention and venting standards, including NFPA 68 and NFPA 69 where applicable; and,
4. Any additional engineering analysis, calculations, test data, or evaluations required by NFPA 855, UL testing standards, or other applicable codes.

Section 5.
Independent Technical Review

Pursuant to Chapter 187 of the Texas Utilities Code, Kerr County may request independent third-party technical review of submitted materials, plans, testing, or safety analyses. Such reviews may include engineering, fire protection, or emergency response evaluations, and may be conducted at the Developer's expense as authorized by Chapter 187.

Section 6.
Continuing Reporting and Material Changes

The Developer shall promptly provide updated documentation to the AHJ upon:

1. Any material change in system design or configuration;
2. Substitution of battery modules or manufacturers;
3. Changes in fire suppression, detection, or mitigation systems; and,
4. Any significant incident, fire event, thermal event, or emergency response activation associated with the Project.

Section 7.
Emergency Response and Site Coordination

Prior to commissioning, the Developer shall provide to the County Fire Marshal and local emergency responders:

1. Emergency response plans and contact protocols;
2. Site maps and hazard identification materials suitable for first responders; and,
3. Training or briefing opportunities reasonably necessary to familiarize local responders with facility hazards and response procedures.

Section 8.
Critical Infrastructure and Security Compliance

The Developer shall provide documentation reasonably demonstrating compliance with applicable state and federal laws relating to critical infrastructure security, including disclosure of major system components and manufacturers sufficient to allow verification of compliance with Texas law regarding prohibited technologies and restricted foreign ownership, including Chapter 2275 of the Texas Government Code, Chapter 117 of the Texas Business and Commerce Code, applicable executive orders, and any other applicable state restrictions.

**Section 9.
Environmental and Disposal Compliance**

The Developer shall provide documentation describing plans for recycling, disposal, or decommissioning of battery components in a manner consistent with applicable law.

**Section 10.
Authority to Request Additional Documentation**

The AHJ may request any additional documentation that may be reasonably necessary to verify compliance with applicable codes, standards, and laws relating to fire safety, environmental protection, emergency response, or infrastructure security.

**Section 11.
Coordination With State Authorities**

If credible information is received indicating potential violations of applicable safety, environmental, or infrastructure security laws, the County may refer such information to appropriate state agencies for investigation or enforcement.

**Section 12.
Effective Date**

This Resolution shall take effect immediately upon its passage and approval.

PASSED AND APPROVED this 23rd day of February, 2026.

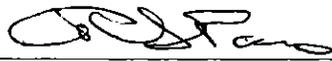
**KERR COUNTY COMMISSIONERS
COURT**



County Judge



Tom Jones, Commissioner, Precinct 1



Rich Paces, Commissioner, Precinct 2

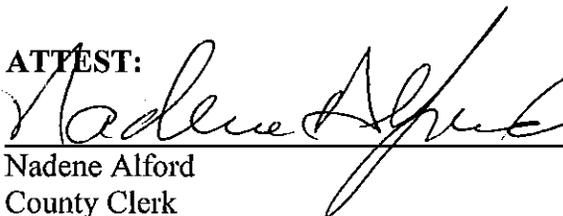


Jeff Holt, Commissioner, Precinct 3



Don Harris, Commissioner, Precinct 4

ATTEST:



Nadene Alford
County Clerk

