

**MINUTES FOR THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
August 4, 2016**

A meeting of the Louisville Metro Planning Commission was held on August 4, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
Vince Jarboe, Vice Chair  
Jeff Brown  
Marilyn Lewis  
Rob Peterson  
Clifford Turner  
Lula Howard  
David Tomes

**Commission members absent:**

Emma Smith  
Robert Kirchdorfer

**Staff Members present:**

Emily Liu, Director, Planning and Design Services  
Joseph Reverman, Assistant Director, Planning and Design Services  
Brian Mabry, Planning Supervisor  
Julia Williams, Planning Supervisor  
Joel Dock, Planner I  
John G. Carroll, Legal Counsel  
Will Ford, Public Information Specialist  
Pamela M. Brashear, Management Assistant  
Kristen Loeser, Management Assistant (minutes)

The following matters were considered:

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**BUSINESS SESSION**

**CASE NO. 16AMEND1007 ONLY**

Request: Amend the Land Development Code Related to Anaerobic Biodigesters  
Project Name: Anaerobic Biodigesters  
Applicant: Louisville Metro Government  
Representative: Louisville Metro Government  
Jurisdiction: Louisville Metro  
Case Manager: Brian Mabry, AICP, Planning Supervisor

This case was continued from the August 1, 2016 public hearing and was heard in business session.

**An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**00:56:51** Brian Mabry presented the modifications to the text amendment (see recording for detailed presentation).

**00:58:46 Commissioners' discussion**

**00:59:30** On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed amendments related to biodigesters comply with the applicable guidelines and policies of Cornerstone 2020 and Sustain Louisville, and

**WHEREAS**, the Planning Commission further finds that the following parts of Cornerstone 2020 recommend many of the measures found in the biodigester draft regulations: G4.3 and C4.6 "Buffers and Compatibility" and Community Form / Land Use, Guideline 3, Policy A.5 through A.7, related to Odor and Air Quality Emissions, Traffic, and Noise, and

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**WHEREAS**, the Planning Commission further finds that section 2.4 Waste, Goal 8, of Sustain Louisville recommends a 50% reduction in solid waste sent to the landfill. Regulations that enable biodigesters to be established in safe and appropriate locations will help to reduce the amount of solid waste going to the landfill; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the following amendments to the Land Development Code Related to Biodigesters that were presented today be **APPROVED** with the modification that the word “ongoing” in the third line of paragraph I be stricken.

Chapter 1 Part 2 Definitions  
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1.2.2 Definitions

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**BIODIGESTER - An alternative energy system that is an accessory or principal use on a property and that utilizes anaerobic digestion for the primary purpose of producing energy. Mechanisms and processes that are part of the digester, including but not limited to separators and refining equipment, produce biogas, which is used for production of electricity and pipeline-quality natural gas. A biodigester may refine digestate as a secondary function to produce soil amendments, fertilizer, and other similar products.**

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**ANAEROBIC DIGESTION – A process of controlled decomposition of biodegradable materials under managed conditions where oxygen is absent, at temperatures suitable for naturally occurring bacteria species, which convert feedstock to a methane-rich biogas and whole digestate.**

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**DIGESTATE –Solid or liquid substances that remain following digestion of feedstock in a biodigester.**

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**FEEDSTOCK –Organic material or waste used by a biodigester to produce biogas.**

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**Chapter 4 Part 2 Conditional Uses**

**4.2.1 Intent and Applicability**

Certain land uses due to their extent, nature of operation, limited application, or relationship to natural resources are considered as exceptional cases. The uses listed in this Part may be permitted in certain districts by Conditional Use Permit following a public hearing before the Board of Zoning Adjustment provided such uses will not have an adverse effect on neighboring property, are not in conflict with the goals and plan elements of the Comprehensive Plan, the proposed uses are essential to or will promote the public health, safety, and the general welfare in one or more zones, and are in compliance with the listed standards and requirements.

The following uses are subject to the Conditional Use Permit process:

| Section       | Conditional Use   |
|---------------|---|
| ****          | ****  |
| <b>4.2.37</b> | <b>Non-emergency Generator and Non-Emergency Alternative Energy Systems, <u>Other than Biodigesters</u></b> |
| ****          | ****  |
| <b>4.2.63</b> | <b><u>Biodigesters</u></b>  |

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4.2.37 Non-emergency Generator and Non-Emergency Alternative Energy Systems, Other than Biodigesters

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**4.2.63 Biodigesters**

**Biodigesters may be permitted in the M-3 zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements of this Section. For the purposes of this Section, a “residentially-zoned property” is a property in a zoning district listed in Chapter 2, Part 2, of this LDC. For the purposes of this Section, distances shall be measured in a straight line from the nearest structure or building associated with the**

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digester to the nearest property line of the nearest residential use, residentially-zoned property, college, school, institution of learning, religious building, park, playground, community center, hospital, nursing home, or assisted living facility.

A. A biodigester shall be a minimum of 2,640 feet from the nearest existing residential use, residentially-zoned property, college, school, institution of learning, religious building, park, playground, community center, hospital, nursing home, or assisted living facility. This provision may be waived or modified to no less than 1,320 feet by the Board of Zoning Adjustment upon consideration of factors including, but not limited to, nearby land uses, scale, capacity, design, operational history of the applicant and of the technology, traffic, noise, odor, appearance, potential risks of pollution, fires, or explosion, and type of feedstock. Residentially-zoned portions of the Ohio River shall not be included in this separation requirement.

B. Vehicles delivering feedstock to the biodigester shall not be offloaded until they are parked inside a fully-enclosed receiving building, and all doors and windows of the receiving building are completely closed.

C. No outdoor storage of feedstock, filtering chemicals, or digestate shall take place on the site. All feedstock, filtering chemicals, and digestate shall be stored inside a fully-enclosed building with all doors and windows closed.

D. All bulking, transfer, and pre-treatment of feedstock shall be carried out in an enclosed building maintaining negative air pressure. All feedstock storage and processing shall occur on an impermeable surface with a sealed drainage system. Feedstock shall be stored in enclosed containers or reactor vessels. The building shall have equipment to control the release of objectionable odors, bioaerosols, and microorganisms into the ambient air.

E. All storage and process tanks shall be bermed with a concrete barrier to prevent spills and shall have a total capacity of at least 110 percent of the largest tank. Each individual tank shall have a capacity of 25 percent of the total tankage volume.

F. The biodigester shall be at least 50 feet from a perimeter property line adjacent to a public right-of-way.

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G. The applicant shall ensure that the noise level at the property line does not exceed 65 dBa. The Board of Zoning Adjustment may require review by an independent noise professional to confirm compliance with this requirement.

H. The biodigester shall be screened as a utility substation in accordance with Chapter 10 of the LDC. In addition, a solid fence or wall in compliance with Section 10.4.9 shall be installed around the perimeter of the operational area of the biodigester.

I. The applicant shall submit an operating plan containing strategies for mitigating odor as part of its application for this Conditional Use Permit. This plan shall be in a form established by Planning & Design Services, in consultation with the Louisville/Jefferson County Air Pollution Control District (APCD). The applicant shall detail how the facility will comply with District Regulation 1.13 *Control of Objectionable Odors in the Ambient Air*. Planning and Design Services shall provide APCD with an opportunity to review and comment on said application, including the odor mitigation plan, prior to the Board of Zoning Adjustment's public hearing. The odor control plan shall be subject to future changes or amendments, as needed, to implement measures that further address existing and future odor issues.

J. Prior to the operation of a biodigester, the applicant shall submit an emergency response plan to the Louisville Metro Emergency Management Agency/MetroSafe and to the Fire Protection District with jurisdiction, which shall review, provide comments on, and accept said plan prior to the Board of Zoning Adjustment's public hearing.

K. The biodigester shall continually maintain compliance with all applicable federal, state, and local laws and regulations, including but not limited to laws or regulations on building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.

L. The applicant shall submit a traffic analysis to the agency responsible for transportation planning, which shall review, provide comments on, and accept said analysis prior to the Board of Zoning Adjustment's public hearing. The traffic analysis shall include information on trip generation, peak hour traffic, trip distribution, haul routes, and other information as may be requested.

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**M. The Board of Zoning Adjustment may retain special expert consultants as it deems necessary to provide assistance in the review of proposed biodigesters. Application fees may be established to cover the costs of staff and/or special expert consultant review of requests filed under this section, within any limits established by KRS Chapter 100.**

**N. All biogas condensate shall be discharged into a sealed drainage system or recirculated back into the digester. Liquids may be discharged into a sewer only as approved by the Metropolitan Sewer District, or may be taken off-site in a closed tanker.**

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4.2.42 Potentially Hazardous or Nuisance Uses

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M-3 Only:

Distillation of wood and bones

Explosives (when not prohibited by other ordinances) including ammunition, fireworks, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, and storage of latter

Exterminating operations where exterminating chemicals or agents are stored

Fertilizer (organic and non-organic), including fish, oils, manure, or peat, **except as a by-product of a biodigester**

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The vote was as follows:

**YES: Blake, Jarboe, Tomes, Peterson, Brown, Lewis, Turner, and Howard**

**NO: No one**

**NOT PRESENT: Smith and Kirchdorfer**

**ABSTAINING: No one**

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**CONCLUSION**

The hearing for this case concluded at approximately 2:15 p.m.

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**Chair**

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**Planning Director**