

ORDINANCE No. _____, SERIES 2016

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS FOR ANAEROBIC DIGESTION FACILITIES FOR BIODEGRADABLE MATERIALS, ALSO KNOWN AS BIODIGESTERS, THROUGHOUT METRO LOUISVILLE PENDING THE STUDY, REVIEW AND RECOMMENDATION BY THE PLANNING COMMISSION OF LAND USE REGULATIONS TO ADDRESS SUCH FACILITIES (AS AMENDED).

SPONSORED BY: COUNCIL MEMBERS JAMES, SHANKLIN AND WOOLRIDGE

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government ("Council") hereby acknowledges that facilities utilizing the anaerobic digestion of wastes in order to generate biogas, also known as biodigesters (hereinafter "anaerobic digestion facilities"), can be of benefit in diverting wastes from land disposal and generating natural gas or electricity through conversion of waste materials; and

WHEREAS, the Council finds that anaerobic digestion facilities, if not properly sited and buffered, have the potential to significantly and negatively affect nearby properties in terms of visual, odor, noise, traffic, environmental, and other impacts;

WHEREAS, the Council finds that the process of bio-digestion may produce not only biogas, but also may produce digestate and wastewater which may have an impact upon the environment if not appropriately handled or processed;

WHEREAS, Louisville Metro Planning & Design has heretofore classified anaerobic digestion facilities as a Non-Accessory Alternative Energy System under the general categories of waste reduction and fertilizer manufacturing, which are allowed as a conditional use in a number of zoning districts the M-3 Industrial zoning district; however, there are no regulations in the Land Development Code pertaining specifically to the appropriateness of such facilities near residential property; and

WHEREAS, the Council finds that a comprehensive study of the zoning regulations is necessary to clearly define anaerobic digestion facilities and specifically address the unique characteristics of such facilities to ensure that any negative visual, noise, odor, traffic, environmental and other impacts related to the operation and associated transportation of materials to and from such facilities are properly mitigated, and that the potential locations of said facilities within Metro Louisville are appropriate and compatible with other surrounding land uses; and

WHEREAS, there may be additional areas of regulatory study, including Air Pollution Control, compliance with Clean Water Act regulations, and licensure regulations for many aspects of bio-digestion;

WHEREAS, it is anticipated that such a study will take approximately six months to initiate and complete; and

WHEREAS, during the pendency of such study, the Council desires to preserve the status quo by preventing the construction or establishment of anaerobic digestion facilities;

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

Section I: There is hereby imposed a moratorium on the acceptance and further processing by Louisville Metro Planning & Design Services, Louisville Metro Codes & Regulations, Louisville Metro Planning Commission, and Louisville Metro Board of Zoning Adjustment of any application involving an anaerobic digestion facility.

Section II: ~~There is hereby imposed a moratorium~~ set forth in this Ordinance shall also include on the issuance by Louisville Metro Codes and Regulations of permits for the construction or establishment of anaerobic digestion facilities.

Section III: The Metro Council hereby requests that the Planning Commission, through its staff in the Department of Louisville Metro Planning and Design Services, review the current sufficiency of zoning regulations related to anaerobic digestion facilities in the Land Development Code as well as existing land use regulations from other jurisdictions that address anaerobic digestion facilities and how those jurisdictions address the unique characteristics of such facilities to ensure that any negative visual, noise, odor, traffic, environmental and other impacts related to the operation and associated transportation of materials to and from such facilities are properly mitigated; draft, if necessary, and propose to the Planning Commission amendments to the Land Development Code regarding the appropriate and compatible locations of anaerobic digestion facilities as they relate to other surrounding land uses, especially residential, within Metro Louisville; and that the Planning Commission hold a public hearing and, within one hundred fifty (150) days from the effective date of this Ordinance, forward its recommendations to the Council regarding potential revisions to the Land Development Code.

Section IV: This Ordinance shall take effect upon passage and approval and shall remain in effect for a period of one hundred eighty (180) calendar days after its effective date unless repealed or extended.

H. Stephen Ott
Metro Council Clerk

David Yates
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____