

**COMMONWEALTH OF KENTUCKY  
COUNTY OF OHIO  
ORDINANCE NO. 2025-5**

**AN ORDINANCE REGARDING BIODIGESTER AS AN ACCESSORY USE/INSTALLATIONS  
TO A PRINCIPAL INDUSTRIAL AND/OR PRIMARY USE/INSTALLATIONS**

**WHEREAS**, pursuant to KRS 67.083, the Ohio County Fiscal Court is granted the authority to undertake all necessary governmental actions for the welfare of the county, and specifically is endowed pursuant to KRS 67.083(3)(h) and KRS 67.083(3)(m) for the regulation of commerce for the protection and convenience of the public, and with the power to protect and conserve the county's natural resources, including but not limited to soil and wildlife, to safeguard the livelihoods and well-being of its residents; and

**WHEREAS**, the Fiscal Court has been informed of a proposal to install a biodigester within Ohio County, Kentucky to address waste from various distilleries; and

**WHEREAS**, Ohio County does not have an Ordinance to address the use of biodigesters in Ohio County, Kentucky; and

**WHEREAS**, the Ohio County Fiscal Court finds it necessary and appropriate to provide reasonable safeguards which mitigate potential nuisances such as pollution, environmental concerns, odor issues, noise disturbance, and impacts to local flora and fauna, among others, created by biodigester facilities as defined herein in order to protect adjoining properties and public at large; and

**WHEREAS**, the Ohio County Fiscal Court recommended the approval of this ordinance:

**NOW THEREFORE, THE COUNTY OF OHIO ORDAINS:**

**Section 1. Definitions**

A. The following definitions are hereby

Anaerobic digester. See biodigester.

Biodigester. A device, structure, or system in which anaerobic digestion occurs. Anaerobic digestion is a collection of processes by which microorganisms break down biodegradable material in the absence of oxygen. A biodigester is typically used to manage biodegradable waste and/or to produce fuels and/or biosolids, such as fertilizer.

Further, the definition would also include 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.

B. The following specific development standards are hereby adopted as to the construction, maintenance, production and use of any biodigester:

A biodigester may be permitted per the following conditions:

1. The biodigester shall be designed, constructed, and maintained in full compliance with all applicable federal, state, and local laws and regulations, including but not limited to building, safety, property maintenance, health, sanitation, fire, electrical, plumbing, mechanical, wastewater, stormwater, and all other applicable laws and regulations.
2. A biodigester shall be a minimum of five hundred feet (500') away from any existing residential use, residentially-zoned property, college, school, institution of learning, religious building, park, playground, community center, hospital, nursing home, daycare, airport terminal, or assisted living facility. This provision may not be waived or modified.
3. All feedstock, filtering chemicals, and digestate shall be delivered, stored, and processed on an impermeable surface with a sealed drainage system inside a fully enclosed building, sealed containers, or reactor vessels. Feedstock and/or waste shall be stored in enclosed containers or reactor vessels.
4. The building shall have equipment to control the release of objectionable odors, bioaerosols and microorganisms into the ambient air. Objectionable odors, bio aerosols, and microorganisms shall not be released into the ambient air. The building may be required to maintain negative air pressure if needed to control the release of objectionable odors.
5. The property owner shall submit to the Emergency Management Director (and Fiscal Court) an operating plan, which includes strategies for mitigating odor. The operating plan shall be subject to future amendments as needed to implement measures that adequately address existing and future odor issues.
6. Flaring of biogas shall be permitted in a location and manner approved by the Emergency Management Director (and Fiscal Court) and in accordance with all applicable laws and regulations. To the maximum extent reasonable, the flaring of biogas shall be screened from adjacent properties and rights-of-way.
7. Vehicles delivering feedstock, waste or materials 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.
8. No outdoor storage of feedstock, waste, 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.
9. All bulking, transfer, and pre-treatment of feedstock and/or waste shall be carried out in an enclosed building maintaining negative air pressure.
10. All storage and process tanks shall be bermed with a concrete barrier to prevent spills and shall have a total capacity of at least one hundred ten percent (110%) of the largest tank. Each individual tank shall have a capacity of twenty-five percent (25%) of the total tankage volume.

11. The biodigester shall be at least fifty feet (50') from a perimeter property line adjacent to a public right-of-way.
12. The biodigester owner/operator shall ensure that the noise level at the property line does not exceed 65 dBa. Any biogas production facility shall be designed and operated in compliance with all applicable noise standards as may be amended. The Ohio County Fiscal Court may require review by an independent noise professional to confirm compliance with this requirement.
13. The biodigester shall be screened as a utility substation in accordance with any state or federal law concerning same. If no law exists, the project site for a commercial biogas production facility shall be fenced to prevent unauthorized access, including provision of signage addressing site security.
14. Prior to the operation of a biodigester, the owner shall submit an emergency response plan to the Emergency Management Director of Ohio County and the Fiscal Court.
15. Prior to the application of any biodigester product to any land/real estate, an environmental study must be performed on such land/real estate where application is sought. The owner(s) shall execute a consent to have the digestive nutrients applied.
16. Liquids may be discharged into a sewer only as approved by the water agency servicing the biodigester and the Ohio County Regional Wastewater District or may be taken off site in a closed tanker.

**Section 2. Findings.** The recitals set forth in this Ordinance and oral open meeting statements are incorporated into and made a part of this Ordinance and where applicable, constitute the findings of the Fiscal Court.

**Section 3. Authorization to take additional steps.** Ohio County, its agents, employees and/or representatives are hereby authorized and directed to take any additional steps and actions necessary or convenient to accomplish the intent of this Ordinance.

**Section 4. Severability.** If a provision of this act or its application to any person, entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**Section 5. Misdemeanor Per Day of Violation.** Any person found in violation of this ordinance shall be guilty of a Class B misdemeanor and shall be fined not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00) per violation. Each day of violation shall constitute a separate offense.

**Section 6. Effective date.** This Ordinance shall take effect and be in force after its passage and publication, in accordance with the laws of the Commonwealth of Kentucky.

**Date of First Reading: September 9, 2025**

Motion by: Larry Morphew

Seconded by: Dale Beavin

Vote:	Bullock	Yes
	Bennett	Yes
	Johnston	No
	Beavin	Yes
	Morphew	Yes
	McKenney	Yes

**Date of Second Reading and Passage: October 14, 2025**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Vote: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
DAVID JOHNSTON Date  
OHIO COUNTY JUDGE EXECUTIVE

ATTESTED:

\_\_\_\_\_  
SONJA DAVIS, COURT CLERK