

ORDINANCE NO. 3056

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, EXTENDING THE MORATORIUM ON THE ISSUANCE OF NEW BUSINESS LICENSES OR NEW ENTITLEMENTS FOR COMPOSTING (GREEN WASTE AND MANURE) FACILITIES IN THE CITY OF ONTARIO FOR AN ADDITIONAL 22 MONTHS AND 15 DAYS, PENDING STUDY AND ADOPTION OF REGULATORY AND ZONING STANDARDS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, in 1999, the City annexed 13 square miles of the San Bernardino County Agricultural Preserve, previously known as the New Model Colony or "NMC"; and

WHEREAS, the City recognized the need to allow for/maintain the existing agricultural uses in the NMC and to provide for the logical transition of uses over time; and

WHEREAS, in 2000, the City adopted Ordinance 2727, establishing the Agricultural Overlay and providing for waste and fertilizer operations as a conditionally permitted use; and

WHEREAS, concern has been expressed about the potential public health and safety impacts resulting from composting (green waste and manure) facilities, including air quality, water quality, and traffic impacts; and

WHEREAS, on June 7, 2016, the City Council adopted Ordinance No. 3053 pursuant to Government Code Section 65858, establishing a 45 day moratorium on the issuance of new business licenses or new entitlements for composting (green waste and manure) facilities in order to give City staff time to gather data about the adverse effects of composting facilities and research, study, and consider ways to amend the City's business license process and the City's Development Code to reduce potential impacts occurring from composting facilities; and

WHEREAS, while no new regulations have been formulated or proposed in the brief time since the adoption of the moratorium, much progress has been made toward identifying key stakeholders and logical next steps; and

WHEREAS, the City's Planning Department has begun the process of reviewing the City's Zoning Code and identifying which zones might be appropriate for composting facilities; and

WHEREAS, the City's Planning Department has begun the process of determining appropriate standards for composting facilities within the City; and

WHEREAS, the City's Planning Department has begun the process of reviewing the State Water Resources Control Board Order WQ 2015-0121-DWQ, General Waste

Discharge Requirements for Composting Operations; and

WHEREAS, the City's Planning Department has begun the process of reviewing the South Coast Air Quality Management District's Rule 1133, requirements for composting facilities; and

WHEREAS, the City's Planning Department has begun the process of reviewing CalRecycle's requirements for composting facilities; and

WHEREAS, because of the complexities of the issue, City staff requires additional time to complete the research and provide appropriate regulations for City Council consideration. As a result, the City Council desires to extend the moratorium for 22 months and 15 days; and

WHEREAS, in preparation for further extending the Ordinance No. 3053, on July 8, 2016, the City issued a report pursuant to Government Code Section 65858(d) describing the measures taken to alleviate the conditions which led to the adoption of Ordinance No. 3053; and

WHEREAS, based on the report, the City Council has determined that the circumstances that led to Ordinance No. 3053, which are set in the recitals of Ordinance No. 3053, have not been alleviated as of the date of this Ordinance and continue to create the concerns described in Ordinance No. 3053; and

WHEREAS, the City has substantially complied with the notice and public hearing required by Government Code Section 65858(a) of the California Government Code for the extension of Ordinance No. 3053.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED by the City Council of the City of Ontario as follows:

SECTION 1. Findings. The above recitals are true and correct and are incorporated herein by this reference. The Ontario City Council hereby finds that this Urgency Ordinance is necessary for the current and immediate protection of the public health, safety, and welfare of the City and its residents.

SECTION 2. Urgency Action. The City Council hereby extends the moratorium established under Ordinance No. 3053 for a period of 22 months and 15 days. No business license or other permit or entitlement shall be issued for the establishment or operation of a composting facility until June 3, 2018. The Ontario City Council hereby finds that there is an urgent need to extend this temporary prohibition in order to eliminate the current and immediate threats set forth above.

SECTION 3. Adoption. Pursuant to Government Code Section 36937, this Urgency Ordinance is designed to protect the health, safety, and welfare of the City and its residents and becomes effective immediately upon adoption by at least a four-fifths (4/5) vote of the City Council following the notice and public hearing required by Government Code section 65858(a).

SECTION 4. CEQA. This Urgency Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, section 15061(b)(3), that this Urgency Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Bernardino in accordance with CEQA Guidelines.

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings and this Urgency Ordinance are based are located at the Office of the City Clerk, located at 303 East "B" Street, Ontario, CA 91764. The custodian of these records is the City Clerk.

SECTION 6. Severability. If any section, sentence, clause or phrase of this Urgency Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Urgency Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Urgency Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Urgency Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 7. Effective Date. This Urgency Ordinance shall become effective immediately upon its adoption.

SECTION 8. Publication and Posting. The Mayor shall sign this Urgency Ordinance and the City Clerk shall certify as to its adoption and shall cause a copy of the full ordinance thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this Urgency Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code section 36933.

PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of July 2016.

  
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PAUL S. LÉON, MAYOR

ATTEST:

  
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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

  
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BEST BEST & KRIEGER LLP  
CITY ATTORNEY

