

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE XI
PLANNING COMMISSION – SPECIAL APPROVAL USES

SECTION 1136. COMMERCIAL COMPOSTING:

A. INTENT:

The intent of this ordinance is to regulate the siting of commercial composting operations, their development and continued use. Development shall be regulated in such a fashion as to protect natural resources and the general health, safety, and welfare of the community as a whole. This Regulation is also intended to preserve, protect, and enhance the social and economic well-being of those proposing the use, in addition to the residents and property owners in the immediate surrounding area. It is also intended that the regulation ensure compliance with appropriate state, county, and local regulations, guidelines and policies.

This ordinance is not intended nor shall it be construed to prohibit an individual from composting yard wastes from the individual's own household, as long as the composting does not create a nuisance or hazard to health. Yard wastes and solid waste accumulated as part of an improvement or the planting of privately owned farmland may be disposed of on the property if the method used is not injurious to human life or property, does not cause unreasonable interference with the enjoyment of life, property, and does not violate any other state, county, or local act, ordinance or regulation.

Activities conducted in accordance with Public Act 240 of 1987 of the Public Acts of the State of Michigan, Right to Farm Act, are exempt from this ordinance.

B. DEFINITIONS:

AS-BUILT: The final approved Site Plan.

CONTAMINANTS: Material received along with the yard wastes which can not be composted and therefore should be removed from the yard wastes in preparation for composting. Contaminants include but are not limited to: plastic bags, string or wire used to bundle brush, cardboard boxes, burlap wrapping, etc.

COMPOST: A complex, highly stable material formed as a result of the breakdown or decomposition of compostable materials; the end product of the composting process; also known as humus.

COMPOSTING: A yard waste management alternative to burning and/or landfilling in which compostable yard waste is collected, processed, and recovered as a resource rather than disposed of. Involves the biological decomposition of organic matter under controlled conditions characterized by piles that generate heat under aerobic conditions. Sheet composting shall not be considered a permitted use.

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COMPOSTABLE MATERIAL: For the purpose of this ordinance, compostable or organic matter and material shall include typical yard wastes and clippings such as and limited to leaves, grass clippings, vegetable or other garden debris, shrubbery or brush, tree trimmings less than four (4') feet in length and two (2") inches in diameter, that can be converted to compost humus. This term does not include stumps, roots, agricultural wastes, animal waste, sewage sludge or garbage.

YARD WASTE: For the purpose of this ordinance, yard wastes shall be limited to leaves, grass clippings, vegetable or other garden debris, shrubbery or brush, tree trimmings less than four (4') feet in length and two (2") inches in diameter, that can be converted to compost humus. This term does not include stumps, roots, agricultural wastes, animal waste, sewage sludge or garbage.

- C. **YARD WASTE COMPOSTING FACILITIES:** Yard waste composting facilities that manage the biological decomposition of organic matter under controlled, aerobic conditions, will be permitted in the AR District only, subject the issuance of a Special Land Use Permit and compliance with the following conditions and standards:

1. Site Location and Design

- (a) Because of the level of truck traffic associated with this use, direct access is required to a paved public roadway designated as a major thoroughfare in the Riley Township Master Plan and capable of carrying Class A loadings on a year-round basis. As an alternative, a site may be permitted on a paved public roadway that has a seasonal weight restriction only if a plan for reduced loadings is agreed to by the governing government agency (P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) and approved by the Township Board. Under no circumstance can trucks use a public road as a staging area. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)
- (b) All internal roads and operation areas shall be kept dust-free at all times.
- (c) The site shall be level and well-drained with a uniform gradient of two (2%) to three (3%) percent. A grading and drainage plan prepared by a licensed civil engineer should be submitted as part of the site plan application package, including existing and future grades. A letter from the governing government agency (P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) shall be submitted stating their jurisdiction and if a detention pond is required. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)
- (d) A survey of soil types on-site shall be submitted, demonstrating their permeability and capacity to absorb water. The plans shall illustrate all surface

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and subsurface artificial drainage systems required to eliminate standing water, seasonal high-water tables of less than one (1') foot, and any restrictions on the ability to operate the facility's large equipment.

- (e) The minimum site size for a compost operation shall be fifty (50) acres. Adequate space must be provided for required setbacks, buffers, berms, and drainage systems along with room for staging areas, initial processing, windrows, screening areas, curing areas, storage of finished products, management office, general storage, internal roads, and storm water retention basins.
- (f) In order to avoid an undue concentration of yard waste facilities in any one neighborhood or area, a minimum spacing of two thousand (2000') feet shall be required between individual composting operations.
- (g) Sites proposed to be located on lands which have been previously issued a development rights agreement, under the Farmland and Open Space Preservation Act, P.A. 116 of 1974, are prohibited from use as compost sites for the duration of the Agreement.
- (h) Composting operations shall not be permitted within a one hundred (100) year flood plain or within fifty (50') feet of a regulated wetland, river, stream, creek, county drain and natural water course. The application and site plan shall include a statement and boundaries of the one hundred (100) year flood plain and regulated wetlands. A twenty-five (25') foot wide grass filter strip shall be added in addition to the fifty (50') foot setback and maintained adjacent to the regulated wetland, river, stream, creek, county drain and natural water course. Final determinations on location of wetlands shall be made governing government agency. (P.H. 6/13/2011; (Adopted 10/4/2011; Published 10/13/2011)
- (i) Per governing government agency (P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) order 5200-5A, composting operations are prohibited within five thousand (5000') feet of any runway used by piston powered craft, and within ten thousand (10,000') feet of any runway used by turbine powered craft unless governing government agency (P.H. 6/13/2011; (Adopted 10/4/2011; Published 10/13/2011) approval is obtained.)
- (j) If the site abuts and existing residential site or property shown as residential on the Riley Township Zoning Map or Master Plan, a buffer zone shall be maintained where no composting, storage, transfer or loading activities will take place equal to - three hundred (300') feet from all adjoining property lines. All buffer zones shall include a minimum six (6') foot high berm and four (4') foot flat top with

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four (4') foot high evergreen trees spaced a maximum of fifteen (15') feet apart. Slopes shall not exceed three to one (3-1) slope. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)

- (k) All site access roads or drives, initial processing areas, and all areas for employee parking shall be paved with asphalt or concrete. Internal haul roads may be unpaved.
- (l) Height of berm may be increased to shield adjoining properties and or roadways. Under no circumstances shall composting be seen from adjoining properties and/or roads. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)
- (m) In addition to the standard in (k.) above, a minimum of five (5) paved, off-street parking spaces shall be provided on-site.
- (n) The site plan submitted shall be prepared by an engineer licensed in the State of Michigan in accordance with Article 9 Section 913. (Word "Civil removed P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011)
- (o) An "as-built" site plan shall be submitted for approval by the Township Engineer upon completion of all improvements, certified by a licensed engineer, demonstrating compliance with all requirements and conditions prior to release of any portion of the performance guarantee and prior to operations beginning on-site. (Word "Civil removed P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011)
- (p) Site plan shall show location and depth of any wells located within three hundred (300') feet from proposed site. Composting operation owners will be liable for any contamination or testing to be done on said properties located within this three hundred (300') foot. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)

D. SITE MANAGEMENT:

1. The operator shall establish a Site Management Plan to be submitted with the site plan review. The Site Management plan shall contain, at a minimum the following:
 - a) Name, address, and telephone number of the owner or owners of the land of the subject site;
 - b) Name, address, and telephone number of the applicant a making request for the special approval use permit;

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- c) Name, address, and telephone number of person, firm or corporation who, or which, will be managing the actual composting operation and who is also responsible for correcting all operational problems that may result in complaints being made to Riley Township;
- d) An outline of the management structure complete with names, titles, addresses, and telephone numbers;
- e) The Township shall be notified within fifteen (15) days of changes that occur in a, b, c, and/or d above.
- f) Location, size and legal description of the total land area proposed for such use;
- g) The projected capacity of the facility, including shredded leaves, grass, and brush. Targeted quantities to be processed, incoming and outgoing;
- h) A statement on the population intended to be serviced by the facility (where will the compostable material be received from, evidence of contracts shall be included), and how this material will be brought to the site;
- i) Types of materials to be composted and what form it will be accepted in. Procedures for monitoring incoming and outgoing material, controlling the disposal or refusal of unacceptable materials;
- j) Method of composting to be used (sheet composting is prohibited);
- k) The operator shall provide plans showing all equipment (i.e. shredders, front-end loaders, windrow turning machine, screening and shakers, etc.) maintenance and storage areas. Plans shall show the location of all fuel storage facilities and shall detail primary and secondary containment for all hazardous materials, including product-tight containers for primary containment. Fuel storage shall meet or exceed flammable and combustible liquids code as adopted with amendments by the appropriate governing government agency. P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011)
- l) Personnel: number to be employed and duties of each;
- m) An outline of the operational cycle and timetable beginning with acceptance of material on-site to the disposal of final product. This outline shall include plans for the pre-processing or staging of material (i.e. chipping, mixing materials, windrow formation, material layering, watering), the compost activity (i.e. windrow turning, monitoring moisture content and temperature, windrow

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- combining, curing and finishing, including screening), and the distribution of the final product;
- n) Operational details shall be stated, including the hours of operation and days of the week that the facility will be open throughout the year; estimated truck trips per day; approval by the appropriate governing government agency for ingress and egress to site from public road. P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011)
 - o) List of the chemicals or accelerating agents to be used, including bacteria, fungi, or nitrogen. Include established guidelines for use and storage of these agents;
 - p) A statement on the methods to be used to monitor and ensure protection of the environment (odor, dust, noise, blowing, trash, anaerobic problems, methane production). This shall include an outline of the necessary steps which will be taken to reverse a breakdown in the composting system or pollution problem;
 - q) Plans for the disposition of nonmarketable compost.
 - r) Shall include a plan for the disposition of the final products. This plan shall encompass targeted users, projected quantities to be produced and distributed, and the manner of distribution and sales (i.e. retail, individual bags, truckloads, or wholesale). The applicant shall present to the Township a copy of their registration issued by the Michigan Department of Agriculture as evidence of compliance with P.A. 634 of 1976, the Commercial Fertilizer Regulation Act;
 - s) Evidence on the previous use, or nonuser, of this site for waste disposal;
 - t) Statements indicating that the applicant is aware of, has read, and understands as it applies to the proposed composting operation, Public Acts of the State of Michigan, including P.A. 245 of 1929 as amended, the Water Resources Commission Act; P.A. 348 of 1965 as amended, the Michigan Air Pollution Control Commission Act; P.A. 116 of 1974, the Michigan Farmland and Open Space Preservation Act; P. A. 634 of 1976, the Commercial Fertilizer Regulation Act; and P. A. 198 of 1975, the Fertilizer Act. This plan shall also include a copy of the applicant's soil erosion and sedimentation control permit, as evidence of compliance with Act 347 of 1972 of the Public Acts of the State of Michigan and
 - u) A contingency operations plan which addresses action to be taken in the event of a natural disaster, equipment failure, extended adverse weather, storm

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sewer failure, unauthorized receipt or dumping of hazardous material, or a breakdown in the composting process resulting in odor, dust, or offsite surface or groundwater contamination. These plans shall address reserve or alternate equipment, alternative handling methods, agencies to be contacted or alerted, and alternative operational plans.

E. OPERATION:

1. Access to the site shall be controlled to prevent unauthorized dumping during non-business hours. The operator shall establish a procedure and mechanism for proper disposal of non-yard wastes at an approved sanitary landfill.
2. Only yard wastes shall be composted at such facilities, typically including leaves, grass, clippings, brush and tree or shrub trimmings. All yard wastes must be brought to the site loose or in biodegradable paper bags designed to degrade rapidly under aerobic conditions. All bags brought to the site shall be broken up and turned into compost windrows within five (5) days of delivery to the site. In no instance shall yard wastes be accepted in plastic bags.
3. The decomposition process shall be properly managed and maintained in an aerobic condition to prevent all unnecessary odors. Towards this end, the temperature of compost piles shall be monitored regularly during the decomposition process, and all unfinished compost piles shall be turned when the internal temperature drops below one hundred and twenty (120°F) degrees Fahrenheit.
4. Poned water shall not be permitted to collect on a yard waste composting site. A plan for collection, retention and drainage of storm water shall be provided for review and approval. Filtration of runoff prior to discharge off-site shall be accomplished by use of grass swales and detention ponds. Any direct discharge to a water body will require a permit from the appropriate governing government agency. (P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011)
5. The operator shall provide sufficient equipment on-site to properly manage the composting process. At a minimum this shall include a front-end loader or similar machinery for loading and unloading, a scarab or similar windrow machine for turning and aeration operations; a shredder for reducing new material to a smaller particle size for faster decomposition; a source of water or watering trucks; and a screen to improve the quality and marketability of the final product.
6. The volume of yard wastes handled by the facility shall not exceed six thousand (6000) cubic yards of incoming yard wastes per acre of active composting area on-site, exclusive of access roads, service areas, parking areas, required buffer

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zones, and similar areas. In no instance shall the volume of yard wastes accepted by any facility exceed three thousand (3000) cubic yards per acre based on the total site area.

7. The operator understands and agrees that failure to maintain and operate the site in a responsible manner that minimizes the potential for adverse impacts on neighboring properties shall constitute grounds for enforcement action by the Township and the voiding of Special Approval Use Permit per Article 11 Section 1109.
8. Treated yard wastes shall be actively rotated in an aerobic condition. Wastes shall not be allowed to accumulate for longer than three (3) years before being finished and removed from the site.
9. An annual inspection/permit fee for all yard waste composting facilities shall be established by resolution of Township Board, and the facility shall be open for inspection by the appropriate governing government agencies P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) at all times.
10. Copies of all the appropriate governing government agencies P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) applications/permits, if required, shall be provided to the Planning Commission as part of the application package.
11. All outside storage of equipment and vehicles shall be screened from view from public streets and adjacent residential property by a building, decorative screen wall, or landscaped buffer area.
12. The applicant shall provide a copy of the annual permit issued by the appropriate governing government agency. P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) for the sale of finished compost products to the Township Board within thirty (30) days of receiving said permit.
13. A sign must be installed according to Section 909. Sign must include the following information: the name and address of the facility, days and hours of operation, and material accepted. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)

F. ANNUAL OPERATING PERMIT

- (A.) All yard waste composting facilities shall obtain an annual operating permit from the Township Board. An annual operating permit shall be issued only after the Planning Commission's approval of the site plan and special land use, payment of all application, review, inspection and permit fees, and deposit of required

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performance guarantees. Issuance of all subsequent annual operating permits shall be on condition of conformance to all ordinance requirements, design plan and operating features, and conditions on the special land use. Annual inspection shall be made simultaneously by a licensed engineer and one (1) Planning Commission Member. The composting permit shall be annual in nature and the applicant shall reapply sixty (60) days prior to the anniversary date of issuance of permit to renew the composting permit for the parcel with the composting facilities. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)

- (B.) In the event that the Township retains the services of an independent engineer to evaluate the site plan operation/management plan, the proposed yard waste composting facility shall comply with the conditions of the Planning Commission Review. Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07 (Removed word "compost" P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011)

G. PERFORMANCE GUARANTEE

1. The Township shall require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township Board covering the estimated cost of all improvements associated with the project and plans as a guarantee for their completion. This performance guarantee shall be returned to the developer upon completion of all required improvements and following receipt and approval of a certified, as-built site plan.
2. The Township shall also require a performance guarantee in the form of cash, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township Board to guarantee restoration in the event of default or abandonment by the operator. A minimum amount of One Hundred Thousand (\$100,000) Dollars, plus six thousand (\$6000) dollars per acre of the total site shall be established and held as a performance guarantee. This performance guarantee shall be maintained in force for the entire operating life of a yard waste composting facility. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)

H. AGRICULTURAL OPERATIONS

Activities conducted in accordance with the Right to Farm Act, Michigan Public Act 240 of 1987, as amended, and in accordance with generally accepted, good farming practices are exempt from the provisions of Article 11, Section 1136 regarding yard waste composting facilities.

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I. GENERAL COMPREHENSIVE LIABILITY INSURANCE

1. Requirement Established The applicant shall secure and file with the Township Clerk certifications of proof of insurance, insuring the Applicant, his employees and/or agents or representative, and the Township for general comprehensive liability in an amount of at least One Million Dollars (\$1,000,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence. These policies shall have no pollution and/or contamination exclusions. (Amended 7/16/07 P.H. 9/17/07 Adopted 12/4/07 Eff. 12/27/07)
2. Notice of Discontinuance The certifications or renewals thereof shall provide that the Township shall be notified upon discontinuance or alteration of any such insurance coverage for any reason.