

ORDINANCE #2004- /

AMENDMENT TO LOWER OXFORD
TOWNSHIP ZONING ORDINANCE OF 1970

Be it ordained by and on behalf of the Board of Supervisors of Lower Oxford Township that the Lower Oxford Township Zoning Ordinance of 1970, shall be and hereby is amended as follows:

Add the following definitions:

Section 200:

Composting Materials: Any organic waste material, including, but not limited to, the manure of any animal, organic material produced or reclaimed from cleaning any barn or other building or other building used for raising of agricultural products, livestock, poultry or horse stable or similar structure, or any other organic material which is stored, combined, processed, aerated, packaged, shipped for reuse or application on any property or any additional processing.

Commercial Composting Processing Operation: Any mixing, combining, processing, aerating, packaging, shipping, or similar use of any composting materials or storing processed compost for the purpose of sale or distribution. The term commercial composting operations shall include all manure storage operations and land application of any composting materials, but shall not include the manure resulting from an on-site agricultural operation, nor manure product being spread on fields as fertilizer for agriculture. The term shall include spent mushroom growing substrate, as well as material being processed to be used as "fresh" mushroom compost.

Composting, Residential

- A. Normal waste materials of a residential property, generated on same property and contained in some manner.
- B. Containment of residential compost materials must meet setback regulations for accessory buildings within district.

Fresh Mushroom Compost: composting materials as herein defined being prepared and processed for the purpose of creating a medium in which to grow mushrooms.

Spent Mushroom Growing Substrate: (a/k/a "Spent Mushroom Compost") means any material or substance remaining, which is no longer used for growing mushrooms, after the mushroom growing cycle is complete, and the crop harvested. The material generally consists of organic material such as straw, manure, hay, cobs, peat moss, and/or soil as remains after crop harvest. This definition shall be deemed to include "Aged Spent Mushroom Compost" which is the material remaining after the spent mushroom compost has been subjected to natural elements for a period of time, after which the fibrous constituents thereof have been naturally conditioned by the elements leaving the material that is primarily a humus-type material suitable for potting soil or topsoil.

Part 8

C-1 Neighborhood Commercial District

Section 800.12H – Add: “However, in no event shall a commercial composting processing operation be permitted in the C1 Neighborhood Commercial District.”

Part 9

C-2 Special Limited Business District

Section 900.12 – Remove Section 501(4) and replace with Section 501(3)

Section 900.21J – Add: “However, in no event shall a commercial composting processing operation be permitted in the C2 Special Limited Business District.”

Part 9A

C-3 Limited Commercial District

Section 911.18L – Add: “However, in no event shall a commercial composting processing operation be permitted in the C3 Limited Commercial District.”

Part 10

I-L Limited Industrial District

Add the following:

Section 1000

13. Conditional Uses

B. Commercial Composting Processing Operation

Remove Section 1001 2 F.

Part 12

Section 1202(12) – Add: “However, in no event shall any commercial composting processing operation be permitted in the C1, C2 or C3 districts.

Add: E. “No commercial processing operation shall be permitted in any of the above zones.

Part 14

Add Section 1421 – Commercial Composting Processing Operation as a Conditional Use.

A. An applicant seeking to establish a commercial compost processing operation must show compliance with the following:

1. COMPLIANCE – The applicant must demonstrate compliance, and continue to comply, with all applicable State and Federal standards and regulations.
2. An Environmental Impact Statement will be prepared and submitted in accordance with Federal and State standards.
3. A water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer and appropriate Federal and State agencies. A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge considering the water withdrawn by the proposed development shall not be approved by the municipality. A water feasibility study shall include the following information:
 - a. Calculations of the projected water needs;
 - b. A geologic map of the area with a radius of at least one mile from the site;
 - c. The location of all existing and proposed wells within 1,000 feet of the site and all known point sources of pollution;
 - d. Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
 - e. A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams and the groundwater table, including a baseline analysis of water quality and water quantity within a one mile radius of the proposed facility; and
 - f. A statement of the qualification and signature(s) of the person(s) preparing the study.
4. DRIVEWAYS – All driveways onto the site must be paved for a distance of at least one hundred (100) feet from the street right-of-way line. In addition, a fifty (50) foot-long gravel section of driveway shall be placed just beyond the preceding one-hundred-foot paved section to dislodge any mud that may have become attached to a vehicle's wheels.

5. **LANDSCAPING** – A landscape strip with a minimum width of 50 feet shall be located along all property lines. No structures, storage, parking or any other related activity or operation shall be permitted within this landscape strip. Fences or other screening erected on the site, must be located on the interior of this landscape strip.
6. **LEACHATE** – Shall be disposed in compliance with any applicable State and Federal laws or regulations. In no event shall leachate be disposed of in storm sewer, to the ground, or in any other manner inconsistent with the Department of Environmental Protection regulations.
7. **MINIMUM SETBACK** – No processing or storage of compost shall be permitted within two hundred (200) feet of any lot line or five hundred (500) feet of any Residential District or use.
8. **NUISANCE CONTROL** – The applicant shall submit a plan demonstrating safe access to the site, control of odors, and control of blowing litter.
9. **OPERATIONS** – All composting activities including the processing, preparation, curing, loading, material handling, unloading, storing (including long-term storage) and packaging operations of compost for commercial purposes must be conducted within a completely enclosed building. The enclosed structure will be located on a concrete slab with a proper drainage collection system so that no materials or liquids leak onto or beneath the ground surface. The structure will also be vector-proof and utilize State of the Art technology for aerobic, thermophilic decomposition of the materials involved in the compost preparation. At all stages the operation must utilize the best available air scrubbing technology to control odor and air pollution. Loading and unloading must occur on a concrete or asphalt surface. All composting activities must take place on the concrete impermeable pad, which size shall be determined by the Board of Supervisors at a conditional use application proceeding.
10. **SCREENING** – The use shall be screened from all roads and adjoining properties by fencing or evergreen planting as determined by the Board of Supervisors.
11. **SUPERVISION** – Unloading, processing and transfer operations shall be continuously supervised by a qualified facility operator. Hours of operation are limited to 7:00 a.m. to sunset Monday through Saturday.
12. **UNAUTHORIZED DUMPING** – Access to the site shall be controlled to prevent unauthorized dumping.
13. **VEHICLE STACKING LANES** – All uses shall provide sufficiently-long stacking lanes into the facility, so that vehicles waiting to be weighed or loaded/unloaded will not back-up onto public roads.
14. Hay and straw utilized in the processing and preparation of compost may be stored outside.

15. No hazardous materials may be utilized at any stage of the composting process including materials to be incorporated into the process.

16. Reserved.

17. Construction of the lagoons to contain the water used in the processing of the compost and of the berms to hold the leachate wastewater must comply with all state and federal regulations and with State of the Art technology.

18. All local water surface bodies and designated ground water downgrading\side gradient, monitoring well locations (to be installed by applicant if not otherwise available) are to be tested for pollutants once a month at the sole expense of the operator. Such tests will include, but not be limited to, levels of ammonia, chloride, fecal coliform, lead and other hazardous substances that are associated with composting operations in accordance with the Pennsylvania Department of Environmental Protection and the Chester County Department of Health Regulations. Air sampling for hazardous pollutants and pathogens will occur on a monthly basis as the sole expense of the operator. Tests for hazardous pollutants and pathogens will be consistent with constituents that are associated with composting operations in accordance with the Pennsylvania Department of Environmental Protection and the Chester County Health Department. Copies of said reports shall be forwarded to Lower Oxford Township and where appropriate, to Federal and State agencies on a monthly basis.

19. Leachate: If leachate is to be discharged into a municipal sewage facility, appropriate permits shall be obtained from the applicable agencies and authorities.

20. Minimum Setback: (in addition to the pending proposal) No processing shall be permitted within five hundred (500) feet of any wells, springs, lakes and/or streams. In addition, any ventilation outlets must be orientated away from land within a residential zone. The setbacks contained in this section shall not be reduced for any reason.

B. Applicant: A person wishing to establish a compost operation in the Township shall present an application for a conditional use, pursuant to the procedures specified in §§1410 and 1413 of this Chapter 27, which shall contain the following:

1. A topographical drawing, prepared by a registered engineer to a scale no greater than one (1) inch equals two hundred (200) feet, showing:
 - a. Location of site relative to public roads.
 - b. Owners of adjacent properties.
 - c. Proposed fencing and improvements.
 - d. Proposed screening.

2. The identity of the owner of the site and relationship of applicant to the owner(s). The application shall include a description of all composting activities in which the owner(s) of the site and/or the applicant and/or their principals have been engaged under any business entity including fictional name registrations, partnership names and corporate names. The description of all composting activities shall include a history of all Notices of Violations, Cease and Desist Orders, and Civil and Criminal citations under any prior business entity name in which the owner/applicant(s) were previously engaged.

3. If the proposed use is contiguous to another property being used for the processing or preparation of compost, the applicant shall establish that the proposed use and location will not contribute to or compound any existing adverse safety, health and welfare conditions as a result of the increased concentration of composting usage. The Board of Supervisors may deny outright or impose additional conditions arising out of problems caused by the over concentration of composting activities in the area in question.

C. Requirements and Standards Applicable to Compost Operation. In considering the application for a commercial compost operation as a conditional use, the Board of Supervisors, acting in conformity with §§1410-1413 of this Chapter 27, shall require that:

1. Any application for compost operation be in compliance with the requirements of the Pennsylvania Department of Environmental Protection and that, prior to the onset of site utilization, a permit be obtained from the Pennsylvania Department of Environmental Protection for said operations if the Pennsylvania Department of Environmental Protection so requires.

2. An application must provide an analysis of the physical conditions of the primary road system serving the proposed use, including information on current traffic flows on the road system including ingress and egress to and from Lower Oxford Township and projections of traffic generated by the proposed use to include anticipated increased noise level, as well as the projected weight and number of vehicles. Any such site must have direct access to either an arterial or collector highway, or a township road that is paved with a surface and base course of sufficient depth to withstand traffic loads as established by the above traffic analysis.

3. The proposed operation will not create a nuisance in the Township or otherwise impose a hardship on adjoining property owners or with the Township in general.

4. That provision be made by the applicant that all trucks entering and leaving the site shall be covered and that as part of the daily operation of the site roads used for access to the site be patrolled daily to pick up and dispose of scattered and blowing papers or other refuse.

5. That the site be properly fenced to prevent blowing papers and other nuisances on adjoining properties.

6. When completed, be properly maintained such that it does not constitute a nuisance or danger to the adjoining property owners and to the surrounding areas from uneven settlement, emission of gases due to waste decomposition, and potential vandalism from being abandoned.

D. Minimum Acreage. No site shall be approved for a compost operation which contains less than ten (10) contiguous acres. In computing site sizes, properties divided by public roads shall not be deemed contiguous. No site shall be larger than 15 acres.

E. Any commercial composting site shall apply for and secure the land development approval by Lower Oxford Township in accordance with the Pennsylvania Municipalities Code.

F. Performance Bond. In order to assure the Township that the various tests and duties imposed upon an applicant by this Chapter 27 are fully performed, the Board of Supervisors shall require that a sufficient surety for such performance shall be posted by an applicant before issuing any conditional use approval or permit. The applicant shall assure the Township by means of financial security sufficient to cover the cost, as estimated by the Township Engineer, of performing the various tests and duties imposed upon him by the ordinance.

G. Indemnification. In addition to the foregoing requirements, all applicants to operate a compost operation upon property within the Township of Lower Oxford shall, prior to the utilization of any site, deliver to the Township Board of Supervisors a liability indemnification, on a form to be prepared by or approved by the Township Solicitor, pursuant to the terms of which, the applicant specifically agrees to fully indemnify and hold harmless the Township of Lower Oxford and all of its officers, agents, and employees from any and all liability and litigation defense costs accruing to any person(s) as a result of any use of any land in the Township permitted by the Board of Supervisors pursuant to this Section 1421.

ENACTED and ORDAINED this 25th day of March, 2004.

Effective within five (5) days of adoption.

Attest:

LOWER OXFORD TOWNSHIP

Ruth W. Libby
Ruth W. Libby, Secretary

Arthur A. Astle
Arthur A. Astle, Chairman

Kenneth L. Hershey
Kenneth L. Hershey

W. Ronald Kepler
W. Ronald Kepler