

**ORDINANCE NO. 97-7-1**

**THE GENERAL LAW TOWNSHIP OF SALEM COMPOSING ORDINANCE**

**AN ORDINANCE UNDER THE PROVISIONS OF PUBLIC ACT 246 OF 1945 AS AMENDED REGULATING THE LOCATION, DESIGN, OPERATION AND MANAGEMENT OF COMPOSTING FACILITIES AS DEFINED HEREIN; PROVIDING FOR THE HEALTH, SAFETY AND GENERAL WELFARE OF RESIDENTS; PROVIDING FOR RECORD KEEPING AND INSPECTIONS; PROVIDING FOR ENFORCEMENT AND VIOLATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR REPEALS; PROVIDING FOR APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS CLAUSE AND EFFECTIVE DATE.**

**THE GENERAL LAW TOWNSHIP OF SALEM ORDAINS:**

**SECTION 1.0 PURPOSE**

The purpose of this Ordinance is to protect the public and enhance the public welfare through regulation of composting facilities. This purpose includes protection of land, air, water, and other natural resources of the Township, by controlling the operations of said facilities and preventing any adverse off-site or other effects of composting facilities and preventing any adverse off-site or other effects of composting facilities or operations. The Board specifically finds that uncertainty as to regulatory requirements for composting facilities has made them more difficult to bring into operation, despite a public need for such facilities to reduce dependence on landfills, as is articulated in numerous state policies. The Board also specifically finds that composting facilities that are not properly operated can be harmful to safety and general welfare to the Township and its residents.

**SECTION 2.0 DEFINITIONS**

The following words or terms are defined for the purpose of this Ordinance. Any words or terms not terms not defined herein shall have the meanings normally ascribed to them or as defined in other Salem Township ordinances.

**SECTION 2.1 COMPOSTING**

Shall mean the biological decomposition of organic material under conditions created, maintained or controlled by a person or entity.

## **SECTION 2.2 COMPO STABLES**

Shall mean natural organic material free of hazardous materials (as defined in U.S. EPA 503 regulations) including brush, trees, holiday greenery, untreated wood including lumber and woodpallets, leaves, grass clippings, vegetative pruning, and garden trimmings.

## **SECTION 2.3 AEROBIC COMPOSTING**

Shall mean the process of biological decomposition of sold organic materials, in an environment where the matter is not freely exposed to oxygen. The microorganisms responsible for the decomposition do not require oxygen to live and grow.

## **SECTION 2.4 ANAEROBIC COMPOSTING**

Shall mean the process of biological decomposition of organic materials in an environment where the matter is not freely exposed to oxygen. The microorganisms responsible for the decomposition do not require oxygen to live and grow.

## **SECTION 2.5 COMPOSING FACILITY**

Shall mean a site where composting occur as part of a private business, non-profit organization, or government service including but not limited to a site where compos tables are received, processed or stored for use in the composting process. A composting facility shall not mean farms where composting is an ancillary part of farm operations which conform to generally accepted agricultural and management practices under the Michigan Right to Farm Act and where no compost is sold or removed for distribution off-site.

## **SECTION 2.6 COMPOSTING FACILITY OPERATOR**

Shall mean the person, entity, group of combination of the same responsible for the operation of a composting facility regulated by this Ordinance.

## **SECTION 2.7 COMPOSTING FACILITY PERMIT**

Shall mean the stipulations in a Conditional Use Permit to an owner or a composting facility operator with respect to a particular composting facility upon compliance with the provisions of the zoning ordinance.

## **SECTION 2.8 ENFORCEMENT OFFICIAL**

Shall mean representatives of the Township or other governmental agencies who are responsible for enforcing compliance with applicable local, state or federal regulations.

## **SECTION 2.9 FARM**

Shall mean a parcel of land consisting of at least 20 acres and use primarily for the raising and growing of crops, nursery stock, livestock, poultry and other farm animals, products and foodstuff.

## **SECTION 2.10 HEALTH DEPARTMENT**

Shall mean the Washtenaw County Department of Public Health.

## **SECTION 2.11 OWNER**

Any person, entity or group or combination of same possessing any type of ownership interest in the property on which composting is occurring, regardless whether the interest is legal or equitable.

## **SECTION 2.12 RESIDENTIAL DWELLING**

Any dwelling not owned by the composting facility operator.

## **SECTION 3.0 SCOPE OF APPLICATION**

As of the effective date of this Ordinance, no composting facility as defined and regulated herein shall be established in the Township nor shall any such operation be continued by any person, unless the composting facility conforms to this Ordinance and other local, state, and federal regulations. This Ordinance shall not apply to a composting facility that is regulated under Part 115 of the Natural Resources and Environmental Protection Act.

## **SECTION 4.0 SITING, DESIGN AND OPERATION REQUIREMENTS**

### **4.1 SITING CRITERIA**

4.1.1 The materials storage, curing, processing and composting areas of the composting facility shall not be located within a 100 year flood plain, within 100 feet of a flowing or intermittent creek stream or lake, within 100 feet of a private water supply well or non-community water supply well, within 200 feet of a community water supply well or within 200 feet of a regulated wetland.

4.1.2 An isolation distance shall be maintained where no composting, storage, transfer or loading activities will take place. The insulation distance measuring from the closest point to a residential property line or dwelling shall be at least 400 feet from the nearest existing residential property line, and at least 900 feet from the nearest residential dwelling.

4.1.3 The composting facility shall include, at a minimum at least one (1) acre of land available for window use for every 3,200 tons or 8000 cubic yards of material received per year to provide adequate area for composting operations in addition to such acreage as is necessary for storage, receiving and processing of material. This figure includes room for aisle ways between windows.

4.1.4 Facility perimeters shall be maintained with vegetative strips.

4.1.5 The main service drive for vehicles bringing compostables to a composting facility must be accessible from a county or state road with an asphalt or concrete surface.

4.1.6 No composting facility shall be permitted within 400 feet of an area zoned and used for residential purposes, zoned under the Salem Township Zoning Ordinance.

4.1.7 Nothing in this Ordinance shall in any way or relieve any obligation or procedure imposed by any other Township ordinance including the Zoning Ordinance or any Federal, State or local law or regulation. This Ordinance is in addition to any rules or regulations contained in other applicable laws.

## **4.2 DESIGN CRITERIA**

4.2.1 The facility site shall be graded at a minimum 2 percent slope to prevent ponding of water where the compostables are received, processed, composted, cured or stored. The surface shall be capable of withstanding wear and tear from normal operations.

4.2.2 All site access road for a composting facility which received more than 15,000 tons of compostables per year shall be constructed to provide all weather access.

4.2.3 The materials storage, curing, processing, composting shall be graded to prevent run-off from exiting the site via surface or groundwater.

4.2.4 Sanitary facilities shall be provided in accordance with the requirements of Township, County or other applicable laws.

4.2.5 All windrows shall be located on pads made of a surface that shall resist erosion or decay and shall prevent ponding of run-off.

4.2.6 As developed, a composting facility must provide year-round accessibility to all points of the site with a surface capable of supporting rescue equipment, emergency vehicles and equipment necessary for the operation of the composting facility in accordance with this ordinance.

### **4.3 OPERATION STANDARDS**

4.3.1 Only compostables may be received, processed, composted, cured or stored by a composting facility. Composting of other materials at a composting facility is prohibited.

4.3.2 Any composting facility operation shall be conducted in accordance with prevailing standards established by the United States Environmental Protection Agency, the U.S. Department of Agriculture, the Michigan Department of Environmental Quality and other governmental regulatory agencies.

4.3.3 A composting facility designed for anaerobic composting or utilizing anaerobic composting as a means of composting shall not be permitted. All composting facilities shall use only aerobic composting methods and shall operate in a manner that prevents anaerobic composting from occurring to any significant extent.

4.3.4 Conditional Use Permit issued by Township Planning Commission shall define acceptable container for compostables to be received at the site.

4.3.5 Compostables contained in plastic bags shall not be received at the composting facility after December 31, 1997. Compostables received in containers which are proven to be compostable shall be allowed.

4.3.6 All compostables which require shredding delivered to a composting facility which have not yet been shredded or ground by the composting facility operator shall be shredded or ground prior to placement of the compostables in a windrow, but in no event later than seven (7) days after delivery of the compostables to the facility.

4.3.7 Public access to the composting facility including delivery and transfer of material shall be limited to operating hours when operating personnel are on-site.

4.3.8 Roll-off boxes or similar waste containers should be moved off-site on a regular basis (e.g. weekly or more often) sufficient to prevent nuisance conditions or as otherwise needed.

4.3.9 Any runoff generated during mixing or composting shall be collected and reintroduced into the compost pile, directed to a sanitary sewer, if available, and permitted, treated on-site or transported by a liquid industrial waste hauler which is properly licensed under the Michigan Liquid Waste Haulers Act.

4.3.10 The composting process shall be managed to maximize the decomposition process and minimize off site odors. The composting facility operator shall submit an operating plan which defines the process to be used and shall forward to the Township any amendments to an operating plan already submitted to the Township a minimum of ten (10) days before the amendment takes effect.

4.3.11 The operator of the composting facility shall provide sufficient equipment on-site or have readily available sufficient equipment to properly manage the composting process and to ensure that the composting facility operates in accordance with this Ordinance.

4.3.12 The operator of a composting facility shall not allow composted materials to accumulate for periods longer than eighteen (18) months.

4.3.13 Prior to the commencement of the operation of a composting facility, the composting facility operator shall develop a written contingency abatement plan acceptable to Salem Township to provide for corrections of any operational deficiencies that may occur at the facility. The plan shall, at a minimum, specify all of the following:

1. Identification of supervisory personnel responsible for putting into effect and the method by which supervisory personnel may be contacted. This information shall be posted on the site
2. Mechanism by which offending odor, source contaminant run-off, or other operational deficiencies will be prevented.
3. Method by which compostables spilled by customers shall be collected and disposed of.
4. Criteria and method by which routine operations will recommence.
5. Method by which incoming material will be halted, hauled, or directed to alternate facility.

#### **4.4 NOISE, ODOR AND DEBRIS**

4.4.1 Noise and vibration emanating from a composting facility shall not exceed standards established in ordinances, statutes and regulations of the Township, Washtenaw County or the State of Michigan. In the absence of more restrictive standards, the following standards shall apply.

1. Operation of the proposed composting facility shall not result in noise exceeding the following levels for specified adjacent land used when measured at the common property line nearest the active work area:

<u>Adjacent Land Use</u>	<u>Maximum Sound Level</u>
Residential	75 DBA
Commercial	85 DBA
Industrial	90 DBA

2. Objectionable noises due to intermittence, beat, frequency or shrillness shall be muffled in as much as it is allowed by OSHA or other applicable regulations so as not to become a nuisance to adjacent land uses.

4.4.2 The compost facility operator shall make every effort not to produce odors which interfere with the enjoyment of adjacent properties. Corrective actions for malodorous situations shall begin immediately. If the corrective actions are not successful within forty eight (48) hours of initial notification, the material shall be removed from the composting facility.

4.4.3 Debris and litter driven by wind or flowing water emanating from a composting facility shall be collected within (7) days by the composting facility operator. In the event that the compost facility operator is unable to prevent wind or weather driven debris from leaving the site, the compost facility operator shall erect screening to stop the scattering of debris from the site.

4.4.4 Any area used for unloading previously bagged compostable materials must be screened with fencing in order to prevent materials from leaving the property. Additionally, any area where materials are removed from bags, or shredded while in the bags, shall also be screened fencing.

4.4.5 A composting facility operator shall use only licensed disposal areas for the disposal of solid waste, and not conduct, manage, maintain or participate in the operation of a disposal area not licensed under 1978 P.A. 641, MCLA 324-11501 et.seq., nor shall it knowingly allow solid waste to be disposed of at an unlicensed facility.

## **SECTION 5.0 RECORDKEEPING AND INSPECTION**

### **5.1 REQUIRED RECORDKEEPING**

Every composting facility operator shall maintain and keep at one location business records which at a minimum shall include but not be limited to records showing (1) the number of employees or independent contractors who are involved in the composting facility, (2) the nature and quantity of any equipment used by the composting facility, (3) when windrows are turned and the temperature and moisture content of any windrow, (4) complaints received and actions taken, (5) sampling procedures and results of material tests taken. The Township may require a composting facility operator to maintain other records if necessary for the Township to monitor compliance with this Ordinance.

### **5.2 INSPECTION RIGHT OF THE TOWNSHIP**

The Township and its officials including designated agents and employees shall have the right to inspect any composting facility or other location where composting is occurring or where there is reasonable belief on the part of the Township officials that composting is occurring anytime to

determine compliance with this Ordinance including review of the operating records of the composting facility or any other person or entity which the Township reasonably believes may be operating a composting facility. The Township shall provide 24 hours notice prior to examination of any such operating records. The composting facility operator and owner including their agents and employees shall cooperate fully with the Township with respect to any such inspections.

## **SECTION 6.0 PERMIT, BONDING AND CLOSURE REQUIREMENTS**

6.1 No composting facility may operate in Salem Township unless its owner, or a composting facility operator with the approval of the owner, shall have first obtained a Conditional Use Permit upon receipt or the following.

6.1.1 Security consisting of (1) cash or its equivalent, (2) an irrevocable bank letter of credit, or (3) a performance bond, any of which must be in amount which is not less than \$5,000.00 for each acre of the composting facility upon which said owner seeks to store, load, unload, process, aerate, turn or compost compostable material as shown by the Site Plan which has been approved by the Salem Township Planning Commission and the Salem Township Board of Trustees.

6.1.2 Proof that (1) the owner of the composting facility has submitted a site plan for its operations to the Salem Township Planning Commission in accordance with the Salem Township Zoning Ordinance and (2) that said site plan has been approved and all preconditions established by the Planning Commission for operation of the composting facility have been satisfied.

6.2 At least 90 days prior to the date of planned closure of any composting facility, the owner of composting facility operator shall submit to the Township a site closure plan which shall include a detailed plan as to when and how the following will be accomplished: (1) removal and cleaning of all facility grounds, retention ponds and drainage areas of all compost materials, construction scrap, an other material related to the operation, (2) cleaning, removal or secure storage of all vehicles, equipment, machinery, and (3) cleaning of remaining structures of compost materials, dust or other residues related to the composting operation. Salem Township must respond within 45 days to approve the plan or establish additional actions which must be taken in order to receive plan approval. If the Township does not respond within 45 days, the plan shall be deemed approved.

6.3 Upon termination and closure of the operation of a composting facility in accordance with this Ordinance, the owner may request in writing that the Township Clerk release the security. The Township Clerk shall release the security upon verification that the owner and composting facility operator have permanently ceased operation of the composting facility in accordance with this Ordinance and the composting facility is not in violation of the Ordinance. The owner or composting facility operator requesting return of the security shall be responsible for payment of any fees occurred by the Township with respect to any inspection or verification required by this

subparagraph. Said fees shall be paid directly to the Township in advance in accordance with schedule to be determined by the Board from time to time. The Township Clerk may take said fees out of the security if the owner of composting facility operator fails to pay said fees within (15) days of the mailing of an invoice by the township to the person or entity in whose name the composting facility permit has been granted. The security shall not be released until all fees owed to the Township by the owner and composting facility operator have complied with the Ordinance. After payment of all fees or other amounts due to the Township, the balance of said security, if any, shall be returned to the owner or composting facility operator in the event that it is determined that said persons have permanently ceased or closed operations and are not in violation of the Zoning Ordinance.

#### **SECTION 7.0 ENFORCEMENT**

Enforcement officials shall be permitted entry to the composting facility for inspection purposes accompanied by facility personnel anytime to determine compliance with this Ordinance and other applicable regulations. Nor person shall impede the inspection of a composting facility by enforcement officials

#### **SECTION 8.0 PENALTIES**

Any person, corporation, partnership or any other legal entity who fails to comply with any of the provisions of this Ordinance or any of the regulations in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction thereof, may be fined not more than Five Hundred (\$500.00) Dollars. Every act or violation and every day upon which a violation occurs shall be considered a separate offense. Any violation of the terms of this Ordinance shall be, and the same is hereby declared to be, a nuisance per se, and such use may be abated, restrained, enjoined, and prohibited upon the commencement of an appropriate action in the Circuit Court.

#### **SECTION 9.0 CONSTRUCTION, NONAPPLICABILITY, APPEALS**

This Ordinance shall be liberally construed in such a manner as to effectuate its purpose. The provisions of the Ordinance shall be construed, if possible, in such manner as to make such provisions compatible and consistent with the provisions of all existing and future zoning and other ordinances of the Township and all amendments thereto; provided however, that where any inconsistency or conflict cannot be avoided, then the most restrictive of such inconsistent or conflicting provisions shall control and prevail. If there is believed to be a conflict between the stated intent and any specific provisions of the Ordinance, the Township Board may, in accordance with established zoning ordinance procedures, permit modification of said provisions while retaining the intent of such appealed instance.

## **SECTION 10.0 REPEALS**

All ordinances or parts thereof in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect. However, this Ordinance shall not in any way affect or modify the Township's existing Zoning Ordinance.

## **SECTION 11.0 SEVERABILITY**

Should any provision or section of this Ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of the remaining provisions or sections.

## **SECTION 12.0 SAVINGS CLAUSE**

The repeal provided therein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution, or any right established or occurring prior to the effective date of this Ordinance.

## **SECTION 13.0 EFFECTIVE DATE**

This Ordinance shall become effective thirty (30) days after its adoption and publication in a newspaper of general circulation throughout Salem Township.

**CERTIFICATE**

I, Marcia T. Van Fossen, the Clerk of the Salem Township, Washtenaw County, Michigan, hereby certifies that in pursuance of law and statute provided, at a regular meeting of the Salem Township Board held on July 8, 1997 at the Salem Township Hall within the Township, the Board enacted and passed Ordinance No. 97-7-1 to become effective on August 18, 1997. The following members voted “aye”:

Baxter, Dunlap, Rhinehart, Van Fossen, Penn

The following members voted “nay”:

None

I further certify that in accordance with Township Board direction, the adopted Ordinance was published on July 17, 1997, in the South Lyon Herald, a newspaper circulated in Salem Township; and that said Ordinance book on August 19, 1997.

Dated: August 20, 1997

\_\_\_\_\_  
Marcia T. Van Fossen, CMC, Clerk

Attest:

\_\_\_\_\_  
Michael J. Penn, Supervisor





Shall mean the biological decomposition of organic material under conditions created, maintained or controlled by a person or entity.