



Bill No. _____
Concerning: Limited Food Waste Composting

Introduced: _____

Revised: _____ Draft No. _____

Enacted: _____

Effective: _____

Expires: _____

Frederick County Code, Chapter 1-19

Section(s) 5.310; 8.408; 11.100

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of the County Executive

AN ACT to: allow food waste compost processing, with certain conditions, for agricultural and commercial uses.

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter 1-19 Section(s) 5.310; 8.408; 11.100

Other: _____

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law.</i>
[Single boldface brackets]	<i>Deleted from existing law.</i>
***	<i>Existing law unaffected by bill.</i>

Bill No. _____

This Bill amends the County Zoning Code with the intent of facilitating “limited” food waste composting on farms without requiring that approval of the solid waste overlay floating zone. The Bill proposes two categories of users: (1) *Limited Food Waste Composting: Agricultural Activity*; and, (2) *Limited Food Waste Composting: Commercial Activity*.

The Agricultural Activity designation allows food waste composting as a principal permitted use (no site plan required) for processing activities in an area between 5,000 square feet and 5 acres of land. Land owners may accept food waste for the purpose of applying the material to their land for strictly agricultural activities, with no resale of the composted product allowed.

The Commercial Activity designation allows food waste composting, with site plan approval, in an area between 5,000 square feet and 10 acres. Land owners under this designation may accept food waste for the purposes of applying the material to their farms with the intent of making the composted product commercially available to others.

Agricultural food waste compost processing activities that exceed 5 acres of land will require site plan approval. Any food waste compost processing activities that exceed 10 acres of land will require application of a solid waste floating zone designation.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland

ARTICLE V: ZONING MAP AND DISTRICTS

DIVISION 3. USE TABLE

§ 1-19-5.310 USE TABLE.

(A) Permitted uses and required development review.

P Principal permitted use subject to design regulations

PS Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-19-3.300 through 1-19-3.300.4

E Principal permitted use as a special exception with site development plan approval. See §§ 1-19-8.320 and following

T Permitted as temporary use as a special exception. See § 1-19-8.300

X Permitted as temporary use only. See § 1-19-8.700

SW Solid Waste Floating Zone

A blank indicates that the use is not permitted under any situation

Uses	Zoning Districts													
	RC	A	R1	R3	R5	R8	R12	R16	VC	M X	GC	ORI	LI	GI
<i>Solid Waste Operations</i>														

Composting:														
<u>Limited Food Waste Composting:</u> <u>Agricultural Activity ****</u>		P												
<u>Limited Food Waste Composting:</u> <u>Commercial Activity ****</u>		PS												

* Townhouses will be permitted only within MPDU developments; however, in no event shall the number of townhouses exceed 50% of the total number of units within the MPDU project.

** Communication towers not permitted in residential districts, PUD, or MXD districts with a residential component

*** A zoning certificate is required to be obtained prior to the initiation of the processing operation and/or prior to any building construction related to farm winery, farm brewery, farm winery tasting room, or farm brewery tasting room.

**** These uses are prohibited within wellhead protection areas; outside of WHPA the location and containment of hazardous substance for these uses must meet the requirements of § 1-6-50.

***** A limited accessory apartment may be approved as an accessory use where the provisions in § 1-19-8.212 are met (see also § 1-19-8.240, and § 1-19-8.321)

{(B) Remains Unchanged}

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

*** - indicates existing law unaffected by bill.

ARTICLE VIII: SPECIFIC USE REGULATIONS
DIVISION 4. PERMITTED USES

§ 1-19-8.408. LIMITED FOOD WASTE COMPOSTING IN THE A DISTRICT.

The following provisions shall apply to limited food waste composting activities and operations in the A District that are greater than 5,000 square feet in size.

(A) All limited food waste composting activities and operations shall be located on land zoned agriculture. Food waste composting activities and operations shall be limited in size as follows:

1. 10-acre Limit: Limited food waste composting activities and operations shall not exceed 10 acres except with approval of a solid waste floating zone designation.

2. Limited Food Waste Composting: Agricultural Activity. Activities and operations up to 5 acres in size shall not require site plan approval.

3. Limited Food Waste Composting: Commercial Activity. Activities and operations require site plan approval and shall not exceed 10 acres in size.

(B) No portion of the limited food waste composting activity or operation shall be located within the floodplain district as defined in section 1-19-9.100.

(C) All limited food waste composting activities and operations shall be set back a minimum of 25 feet from the floodplain district and 50 feet from the banks of streams as provided in Section 1-19-9.110.

(D) Limited food waste composting activities and operations shall not cause any odor, dust, smoke, vibration, or unreasonable noise which can be detected at or beyond any property line.

(E) All activities and operations associated with the limited food waste composting facility shall be located a minimum of 150 feet from the property lines.

(F) The subject property must have road frontage and access on a minimum 20-foot-wide paved public road. Commercial/Industrial entrance standards shall be utilized in the design of any point of access to a public road as determined to be necessary by the Frederick County traffic engineer.

(G) The applicant shall submit a vehicle circulation plan indicating that adequate turn radius is provided both to and from the subject property. Adequate space for the safe movement of all proposed vehicles and equipment being utilized on site shall be provided.

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(H) Limited food waste composting activities may include delivery and incorporation of off-site generated food waste into the on-site composting operation.

(I) The applicant shall maintain records detailing the date and source of off-site generated food waste. The records must be made available to the Zoning Administrator upon request.

(J) All materials at the limited food waste composting facility shall be sorted and processed in a manner that prevents harboring or breeding of insects or animals, and prevents creation of odor, litter, or other nuisances that may be harmful to the public health or the environment.

(K) All incoming materials associated with food waste must be incorporated into the composting processes within 24 hours. Liquids must be controlled to prevent run off during offloading, storage, and processing of all received wastes.

(L) Commercial sales of on-site generated compost to the general public are allowed only for the Limited Food Waste Composting: Commercial Activity use. Such commercial sales shall not be allowed for the Limited Food Waste Composting: Agricultural Activity use.

(M) Limited food waste composting activities and operations shall comply with all applicable federal, state, and local regulations and shall conform to the requirements of all Federal and State of Maryland permits and other approvals.

ARTICLE XI: DEFINITIONS
DIVISION 1. DEFINITIONS

§ 1-19-11.100. DEFINITIONS.

LIMITED FOOD WASTE COMPOSTING: AGRICULTURAL ACTIVITY. The use of property for the purpose of food waste composting (including associated paper products) operated on a site in conjunction with an *agricultural activity* as defined in section 1-19-11.100 of the zoning ordinance.

LIMITED FOOD WASTE COMPOSTING: COMMERCIAL ACTIVITY. The use of property for the purpose of commercial food waste composting (including associated paper products) where off-site food waste is imported to the site, processed, and sold. The composted product of limited food waste processing: commercial activity may also be used on the property in conjunction with an *agricultural activity*.

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Best Management Practices

From receiving materials to selling the finished product, employing best management practices can help eliminate problems before they start and increase the quality of the final product.

- To help reduce odors and vectors, manage food waste immediately upon arrival by mixing with carbon-rich and absorbent material such as wood chips or mulch.
- To help inhibit vectors, consider prohibiting dairy and meat products. If accepted, incorporate deep into the center of the compost piles.
- To help control litter, enhance product quality and reduce residual wastes, prohibit plastics (including bags) and carefully screen feedstocks to ensure acceptability.
- Mix inherently wet materials with coarse, dry, bulking materials.
- Ensure the right carbon to nitrogen ratio (aim for approximately 30:1) to expedite the composting process and to help reduce odors.
- Aeration is important to prevent anaerobic, odor causing conditions; turn/agitate the pile as needed.
- To help control dust, have an on-site water supply available for dust suppression activity.
- Maintain adequate drainage to eliminate standing water. Concurrently, ensure appropriate storm water management practices are in place and treat contact water as necessary to prevent impact on the surrounding environment.
- Implement processes to further reduce pathogens using an appropriate method. (Detailed in Appendix B of Title 40 of the Code of Federal Regulations, Part 503.)
- Understand potential markets for compost to ensure demand will meet your supply of finished product. Only accept a quantity of raw material you know can be successfully marketed at the end of the production process as finished product.

Non-Residential Composting



Zoning Requirements

and

Best Management Practices



This brochure is intended to provide general information for development of composting operations within Frederick County.

Composting operations are regulated by the Frederick County Code as well as the Maryland Department of the Environment.



Frederick County Government

Division of Planning & Permitting

30 North Market Street
Frederick, MD 21701
301-600-1138

Department of Solid Waste Management

9031 Reichs Ford Road
Frederick, MD 21704
301-600-1848

Zoning

The County Zoning Ordinance currently provides for specific types of Solid Waste Composting operations or facilities in Frederick County in the Use Table section 1-19-5.310 of the Zoning Ordinance and requires a Solid Waste Floating Zone Amendment in the Ag, U and G1 zoning districts. However, the following provisions may allow for exemptions:

Exemptions:

Section 1-19-5.300(E)(1)(a) of the Zoning Ordinance states that 'A use not specifically listed in section 1-19-5.310 Use Table is presumed to be prohibited, except when: (a) permitted in any zoning district by state statute.'

Therefore, those activities not required to obtain a permit from MDE may be exempt from specific zoning review and approval regulations. The Environment Article, §9-1725, Annotated Code of Maryland, and Code of Maryland Regulations (COMAR) 26.04.11.11 provide direction and definitions for these types of composting activities. Exemptions for these types of composting activities include:

On-Farm Composting Facility Exemptions

Where the Farm meets the definition in COMAR 26.04.11.02, meets the provisions of COMAR 26.04.11.04(B), and meets the provisions in 26.04.11.06 (C)-(G)

- **Regardless of size if:**
 - ⇒ The facility composts only organic materials generated on-site or at another farm controlled by the same operator; and
 - ⇒ The compost is used for personal, household, family, or agricultural purposes at the farm where the composting facility is located or at a farm controlled by the same operator.

- Where an on-farm composting facility that uses no more than 40,000 square feet of area in support of composting operations if:
 - ⇒ The facility composts only one or more of the following:
 - Material generated on-site or at another farm controlled by the same operator
 - Animal manure and bedding, regardless of the place of generation; and
 - Type I feedstocks*, regardless of the place of generation.
- Where an on-farm composting facility uses no more than 5,000 square feet in support of composting operations if:
 - ⇒ The facility is a Tier 1 or Tier 2 facility*
 - ⇒ Maintains any raw feedstock storage piles at a height of 9 feet or less; and
 - ⇒ Maintains any active composting pile, curing or finished compost piles at a height of 12 feet or less.

Any application for land use approval that meets the definition of Solid Waste Composting (based on the above definitions from the Zoning Ordinance) would be required to obtain a Solid Waste Floating Zone Amendment.

Non-Farm Composting Facility Exemptions

A composting facility permit is not required by MDE for a composting facility where the facility meets the provisions of COMAR 26.04.11.05(C), meets the provisions in 26.04.11.04(B) including the following:

- Where the facility is located on a residential property and composts organic materials generated on the residential site, if the resulting compost is used on the residential site for personal, household, or family purposes.

- Is a Tier 1 or Tier 2 facility that:
 - ⇒ At all times uses no more than 5,000 square feet of area in support of composting operations; and
 - ⇒ Maintains any raw feedstock storage pile at a height of 9 feet or less; and
 - ⇒ Maintains any active composting pile, curing, or finished compost piles at a height of 12 feet or less.

Any use dealing with solid waste which requires a permit from MDE and is not specifically provided for in the Use Table would also require a Solid Waste Floating Zone Amendment.

For specific information regarding wood waste recycling, sludge amended yard waste, or sludge pit activities in Frederick County please contact the Frederick County Department of Development Review at 301-600-1138.

* For Definitions of 'Tier 1, 2 and 3 Facility' and 'Type I, II, and III feedstock' see COMAR 26.04.11.02



PERMITTING REQUIREMENT REFERENCE - COMPOSTING FACILITIES ONLY *

Tier 1 Facility-Accepts Type 1 feedstock, which consists of yardwaste

Tier 2 Facility-Accepts Type 1 and Type 2 Feedstock. Type 2 feedstock consists of food waste, animal manure & bedding, industrial poultry and seafood residuals and animal mortalities

Material/Facility Type	Facility Size	State Composting Facility Permit Required?	Local Zoning Required?
Commercial			
Tier I			
	<5000 sq ft	No	No, if source materials are residential
	>5000 sq ft	Yes	Solid Waste Floating Zone if materials are commercial, industrial or agricultural
Tier II			
	<5000 sq ft	No	No, if source materials are residential
	>5000 sq ft	Yes	Solid Waste Floating Zone if materials are commercial, industrial or agricultural
Farm			
Tier 1 or Tier 2-Materials from on site OR multiple sites w/same operator AND product used at same operator owned sites			
	No size restriction	No	Solid Waste Floating Zone OR exemption by way of complementary use
Tier 1-Materials from any source and/or Tier 2-Materials from on site OR multiple sites w/same operator AND product used at same operator owned sites			
	< 40,000 sq ft	No	Solid Waste Floating Zone OR exemption by way of complementary use
Tier II-Materials from any source AND with feedstock piles <9 ft tall AND finished piles <12 ft tall			
	< 5000 sq ft	No	No, if source materials are residential. If not, Solid Waste Floating Zone OR exemption by way of complementary use

Tier II- Materials from any source AND feedstock piles <9 ft tall
AND finished piles <12 ft tall

> 5000 sq ft

Yes

No, if source materials are residential. If not,
Solid Waste Floating Zone OR exemption by way
of complementary use

* May not apply to NWW processing facilities (i.e., mulching operations)