

**ORDINANCE NO. 2138**

**CITY OF MADISON HEIGHTS,  
OAKLAND COUNTY, MICHIGAN**

**AMENDMENT TO THE CODE OF ORDINANCES**

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights by amending Chapter 27, Article II, Sections 27-16 through 27-33 of the Code of Ordinances, City of Madison Heights, Michigan, to provide for the control and eradication of certain weeds and noxious weeds; to provide for the removal of certain weeds and noxious weeds; to provide for the billing and assessment for costs incurred in controlling and eradicating such weeds; to provide for and encourage planned natural landscaping and bioretention areas; to protect the public health safety and welfare.

**THE CITY OF MADISON HEIGHTS ORDAINS:**

**SECTION 1. Amendment.**

That Chapter 12, Article IV, Section 12-72(a) of the Code of Ordinances, City of Madison Heights, Michigan, is amended in its entirety to read as follows:

**ARTICLE II. NOXIOUS WEEDS**

**Sec. 27-16. - Definitions.**

The following words and phrases when used in this article shall having the meanings respectively ascribed to them:

*Commissioner of noxious weeds* shall mean the Community and Economic Development or his or her designee as part of their day-to-day position responsibilities, in accordance with PA 359 of 1941, MCL 247.61.

*Native Plants* shall mean those plants indigenous to a given area in geologic time. This includes plants identified as native plant species in the Southern Lower Peninsula by the Michigan State University, Department of Entomology, Native Plants and Ecosystem Services.

*Noxious Weeds* shall include any and all noxious weeds as defined by the Noxious Weeds Act, Public Act 359 of 1941, MCL 247.62 and all future amendments and revisions to MCL 247.62, when they are effective in this state, are incorporated and adopted by reference. Noxious weeds shall also include all invasive species as legally designated by the State of Michigan as either "prohibited" or "restricted" that are listed in the Michigan's Invasive Species Watch List. (State law reference MCL 247.62)

*Responsible Person* shall mean the person appearing on the city tax rolls to whom the property tax is assessed.

First Reading – May 13, 2019  
Second Reading – May 28, 2019  
Effective – June 6, 2019

*Turf grass* shall mean continuous plant coverage consisting of a grass species that is mowed to maintain an established height.

*Noxious Vegetation* shall mean all turf grass, turf grass weeds, brush, wildings, second growth, rank vegetation or other unmanaged vegetation having a height greater than six (6) inches or a spread greater than six (6) inches.

**Sec. 27-17. – Noxious weeds and noxious vegetation—Prohibited.**

No responsible person of any lots or land within the city shall permit on such parcel of land or upon any sidewalk abutting the same, or upon that portion of any street or alley adjacent to the same between the property line and the curb or traveled portion of such street or alley, any growth of noxious weeds or noxious vegetation of a greater height than six (6) inches on the average, nor allow any accumulation of dead vegetation, noxious weeds, noxious vegetation, grass or brush.

**Sec. 27-18. - Same— Cutting, destroying, removing required; notice; city removal; collection of costs.**

The responsible person of lots or land within the city shall cut, destroy, or remove all noxious weeds and noxious vegetation from the property. If, after 10 days' notice for noxious weeds, or 3 days' notice for noxious vegetation, the community and economic development director or his or her designee finds that any responsible person has failed to cut, destroy, or remove noxious weeds or noxious vegetation as set out in section 27-17, he or she shall notify the responsible person of the lot or land where the noxious weeds or noxious vegetation is found growing, by either, posting notice to the property or by certified mail with return receipt requested. The notice shall describe methods of cutting, destroying, removing, treating or eradicating the noxious weeds and noxious vegetation and shall contain a summary of the provisions of this Ordinance. Failure of such responsible person to receive such notice shall not constitute a defense to any action to enforce the payment of any costs provided for or debt created under this Ordinance. If the responsible person refuses to cut, destroy, or remove the noxious weeds or noxious vegetation, the city shall enter upon the land and cut, destroy, or remove the noxious weeds or noxious vegetation. Expenses incurred by the city in the cutting, destroying, or removing the noxious weeds or noxious vegetation, shall be billed to the responsible person, shall constitute a lien against the land as a special assessment, and shall be enforced as prescribed in the Charter for the collection of special assessments.

(State Law reference MCL 247.64)

**Sec. 27-19. - Material interfering with cutting, destroying or removing noxious weeds or noxious vegetation; city removal.**

No responsible person shall place or permit to be placed or shall maintain on any lot or parcel of land within the city, any concrete rubble, piles of stones, rubbish, brush or other offensive materials or uneven mounds of earth that would present a hazard to the public or make it

First Reading – May 13, 2019

Second Reading – May 28, 2019

Effective – June 6, 2019

unfeasible to cut, destroy or remove noxious weeds or noxious vegetation. If, after 10 days' notice, the community and economic development director or his or her designee finds that any responsible person has failed to clear or remove any concrete rubble, piles of stones, rubbish, brush or other offensive materials or uneven mounds of earth that would present a hazard to the public or make it unfeasible to cut, destroy or remove noxious weeds or noxious vegetation, he or she shall notify, by certified mail with return receipt requested, the responsible person of the lot or land where the material or conditions are found. If the responsible person refuses to remove the offending material, the city shall enter upon the land and clear or remove the offending material. Expenses incurred by the city in the clearing or removing the offending material shall be billed to the responsible person and shall constitute a lien against the land as a special assessment and shall be enforced as prescribed in the Charter for the collection of special assessments.

**Sec. 27-20. – Removal of growth and materials—Accounts of expenditures.**

The city treasurer or his or her designee shall keep an accurate account of expenses incurred in cutting, destroying, removing, treating or eradicating the noxious weeds and noxious vegetation, or the clearing or removal of offending concrete rubble, piles of stones, rubbish, brush or other offensive materials with respect to each parcel of land entered upon therefore, and shall make a sworn statement of said account and deliver the same to the city clerk.

**Sec. 27-21. - Same—Collection procedure.**

After the accounts required by section 27-20 have been audited, allowed and paid, it shall be the duty of the city clerk to certify them forthwith to the city treasurer. Payment of all expenditures represented by said accounts shall be enforced as prescribed in the Charter for the collection of special assessments.

**Sec. 27-22. – Planned natural landscaping.**

(a) Intent and Purpose.

A variety of landscapes adds diversity and richness to the quality of life in Madison Heights. There are, nonetheless, reasonable expectations regarding the City's landscapes which, if not met, may decrease the value of nearby properties, degrade the natural environment or threaten the public health, safety and welfare. It is therefore in the public interest and within the purview of this legislation to provide standards for the development and maintenance of the City's landscapes, whether corporate, private or public.

The City recognizes a landowners' interest in having managed turf grass landscapes. At the same time, the City encourages the preservation, restoration and management of native plant communities and wildlife habitats within the City limits. The City recognizes that the use of native plants in managed landscapes is economical, reduces maintenance and effectively conserves water, soil and other elements of the natural community. Moreover, the preservation, restoration and management of native plant communities and

wildlife habitats may preclude the introduction of toxic pesticides, herbicides, fertilizers and other pollutants into the environment.

The City further acknowledges the need to enjoy and benefit from the variety, beauty and practical values of natural landscapes and seeks to guarantee citizens the freedom to employ varying degrees of natural landscaping as viable and desirable alternatives to other conventional modes of landscaping.

The City seeks to encourage each landowner to create and sustain a condition of ecological stability on his/her land, that is, a state of good health and vigor, as opposed to one of impairment and decline. It is not the intent of this legislation to allow vegetated areas to be unmanaged or overgrown in ways that may adversely affect human health or safety or pose a threat to authorized agricultural activity. It is the express intent of this City that it shall be lawful to grow native plants, including, but not limited to, ferns, grasses, forbs, aquatic plants, trees and shrubs, in a planned natural landscape when these plants were obtained in compliance with local, State or Federal laws.

- (b) Natural planned landscapes shall use native plants and shall not be considered or enforced as noxious vegetation, defined in this Article, if maintained per this section.
- (c) All planned natural landscapes shall be setback at least four (4) feet from any lot line in the front yard.
- (d) Planned natural landscaping shall be cut back at least annually to remove dead or unmaintained growth. A responsible person shall cut or remove any dead or unmanaged growth on his or her property, including a planned natural landscape.
- (e) Planned natural landscaping shall be designed not to attract or be a harborage for rats or vermin.

Secs. 27-23. – Bioretention areas.

- (a) Intent and Purpose.

A variety of landscapes adds diversity and richness to the quality of life in Madison Heights. There are, nonetheless, reasonable expectations regarding the City's landscapes which, if not met, may decrease the value of nearby properties, degrade the natural environment or threaten the public health, safety and welfare. It is therefore in the public interest and within the purview of this legislation to provide standards for the development and maintenance of the City's landscapes, whether corporate, private or public.

The City recognizes a landowners' interest in having managed turf grass landscapes. At the same time, the City encourages the preservation, restoration and management of native bioretention areas (often called rain gardens) within the City limits. The City recognizes that the use of native bioretention areas in managed landscapes is economical, reduces maintenance and effectively conserves water, soil and other elements of the

First Reading – May 13, 2019

Second Reading – May 28, 2019

Effective – June 6, 2019

natural community. Moreover, the preservation, restoration and management of native bioretention areas may preclude the introduction of toxic pesticides, herbicides, fertilizers and other pollutants into the environment.

The City recognizes that as development increases, the ability of our environment to perform its natural processes decreases. This is because the natural landscape that was once able to absorb and clean storm water is covered by impervious surfaces. Increased impervious surfaces result in an increased amount of storm water runoff and an increased chance for pollution to enter our waterways through our storm sewer systems. Planned bioretention areas help minimize runoff and helps reduce the amount of pollution that enters our waterways.

The City seeks to encourage each landowner to create and sustain a condition of ecological stability on his/her land, that is, a state of good health and vigor, as opposed to one of impairment and decline. It is not the intent of this legislation to allow vegetated areas to be unmanaged or overgrown in ways that may adversely affect human health or safety or pose a threat to authorized agricultural activity. It is the express intent of this City that it shall be lawful to grow native plants, including, but not limited to, ferns, grasses, forbs, aquatic plants, trees and shrubs, in a planned bioretention areas when these native plants were obtained in in compliance with local, State or Federal laws.

- (b) Planned bioretention areas shall use native plants and shall not be considered or enforced as noxious vegetation, defined in this Article, if maintained per this section.
- (c) All planned bioretention areas shall be setback at least four (4) feet from any lot line in the front yard and shall not be included in the right-of-way.
- (d) All planned bioretention areas shall be cut back at least annually to remove dead or unmaintained growth. A responsible person shall cut or remove any dead or unmanaged growth on his or her property, including a planned natural landscape.
- (e) No planned bioretention area shall be located within 10 feet of a building with a foundation, to prevent water infiltration into the foundation.
- (f) No planned bioretention area shall be located within 25 feet of lateral a sewer line, to prevent an increase in the severity of inflow and infiltration into the sewer line.
- (g) Designs for planned bioretention areas should include an overflow point to accommodate severe rain events that may overload the system.
- (h) All planned bioretention areas shall be designed and constructed to completely drain all standing water within 4 days of a rain event as to prevent the incubation of mosquito larvae.

**SECTION 2. Repealer.**

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

**SECTION 3. Severability.**

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**SECTION 4. Savings.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

**SECTION 5. Effective Date.**

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

**SECTION 6. Inspection.**

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.

**ORDINANCE NO. 2139**

**CITY OF MADISON HEIGHTS,  
OAKLAND COUNTY, MICHIGAN**

**AMENDMENT TO THE CODE OF ORDINANCES**

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights by replacing Chapter 14, Sections 14-1 through 14-13, in its entirety, and substituting it with Chapter 14, Articles I through IV, Sections 14-1 through 14-19, for the purpose of gathering in a unified ordinance the requirements for solid waste disposal areas, recycling and composting facilities, and the pickup of residential waste in order to promote the environmental health, safety and welfare of the residents of the city of Madison Heights.

**THE CITY OF MADISON HEIGHTS ORDAINS:**

**SECTION 1. AMENDMENT.**

That Chapter 14, Section 14-1 through Section 14-13, inclusive, of the code of ordinances be replaced, in its entirety, with Chapter 14, Articles I through IV, Sections 14-1 through 14-19, inclusive, of the Code of Ordinances, City of Madison Heights, Michigan, to read as follows:

**ARTICLE I –DEFINITIONS**

**Section 14-1 - Definitions.**

The following words and phrases, when used in this chapter, shall have the following meanings respectively ascribed to them:

Bulky waste means discarded furniture, appliances, tools and other goods, including tables, sofas, stoves, refrigerators, lawn mowers, and such other items that are commonly known as junk.

Business hours mean 8:00 a.m. to 4:00 p.m., Monday through Friday. Non-business hours mean any time outside of business hours.

Compostable material means leaves, grass clippings, brush, woodchips, tree limbs under two inches in diameter, vegetative pruning, Christmas trees, and other garden or yard waste and other organic material.

Garbage means rejected food wastes and all refuse of animal, fruit or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing in or storing of meat, fish fowl, fruit or vegetables.

First Reading – May 13, 2019

Second Reading – May 28, 2019

Effective – June 6, 2019

Recyclable material means high-grade paper, glass, plastic, newspaper, corrugated paper and other materials.

Recycling drop-off center means any lot, parcel, district, region, zone, sector, property, structure or facility located within the city's boundaries, which is unmanned and containing one or more self-contained, fully enclosed containers for the deposit of approved, source separated, recyclable materials by the public.

Recycling processing facility means any lot, parcel, district, region, zone, sector, property structure or facility located within the city's boundaries, designed and used for the collection, sorting, processing and temporary storage of recyclable materials; and the redistribution of processed materials to off-site locations for re-use. As used herein, processing means changing the physical or chemical character by separation, treatment or other means, so as to make it re-useable as a resource.

Recycling transfer facility means any lot, parcel, district, region, zone, sector, property, structure or facility located within the city's boundaries, used for the transfer of recyclable materials from collection vehicles to bulk hauling vehicles. Operations are limited to unloading of collection vehicles and loading bulk-hauling vehicles with collected recyclables for relocation.

Rubbish includes paper, rags, rubber, window glass, ordinary wastes from residences and business establishments and all items not defined in this section.

Solid waste disposal area means any lot, parcel, district, region, zone, sector, property, structure or facility located within the city's boundaries, where bulky waste, garbage, rubbish or compostable material is temporarily stored or dropped off for the purpose of its transfer to a landfill or other area outside of the city boundaries. Operations are limited to unloading of collection vehicles and loading bulk-hauling vehicles with collected garbage, rubbish or compostable material for relocation. A Solid waste disposal area does not include a Recycling drop-off center, a Recycling processing facility, a Recycling transfer facility, a Yard waste transfer facility or a Yard waste composting facility.

Source separated means recyclable materials that are separated at the source of generation.

Yard waste transfer facility means any lot, parcel, district, region, zone, sector, property structure or facility located within the city's boundaries, used for the transfer of compostables from collection vehicles to bulk-hauling vehicles. Operations are limited to unloading of collection vehicles and loading bulk-hauling vehicles with collected compostable material.

Yard waste composting facility means any lot, parcel, district, region, zone, sector, property, structure or facility located within the city's boundaries, designed and used for the conversion of compostable material into organic compost (humus) or where compostable material is stored for transfer longer than twenty-four hours.

## ARTICLE II –SOLID WASTE DISPOSAL AREA

### **Section 14-2. - Solid waste disposal area.**

Any Solid waste disposal area located within the city’s boundaries shall be subject to any and all of the following:

- (a) Any and all present and future federal, state and local statutes, ordinances, codes, rules, regulations, permits, guidance documents, policies, and any other requirement of governmental authorities relating to the health, welfare, safety, or environment or to any hazardous substances or materials, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601, et seq.), as amended from time to time, including without limitation, the Superfund Amendments and Reauthorization Act ("SARA"), as amended from time to time, and its state equivalent, the Resource Conservation and Recovery Act of 1976 (42 U.S.C., Sec. 6901 et seq.), as amended from time to time, and its state equivalent, the Toxic Substances Control Act (15 U.S.C. Sec. 2601, et seq.) as amended from time to time, and its state equivalent, the Hazardous Materials Transportation Act (49 U.S.C. Sec. 18081, et seq.), as amended from time to time, and its state equivalent, the Clean Water Act, and its state equivalent, the Endangered Species Act, and its state equivalent, the Clean Air Act, and its state equivalent, all as amended from time to time, any chemical identified as a known, probable or suspected human carcinogen by any federal agency, state agency or international agency for research on cancer, any "pollutant or contaminate" as defined by 42 U.S.C. 9601 (33), or its state equivalent, any substance listed on the "Title III List of Lists," maintained by the United States Environmental Protection Agency, and its state equivalent, any "hazardous air pollutant" as defined by 42 U.S.C. Sec. 7412 and its implementing regulations, and its state equivalent, and the rules, regulations, and guidance documents promulgated or published thereunder.
- (b) Michigan Natural Resources and Environmental Protection Act (“NREPA”) MCL 324,101, et seq., as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.
- (c) Oakland County Solid Waste Management Plan, as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.
- (d) Madison Heights’ Air Pollution Prevention Ordinance (Chapter 3), as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.
- (e) Madison Heights’ Building and Building Regulations Ordinance (Chapter 6), including but not limited to compliance with construction, electrical, plumbing and mechanical codes and the Dangerous and Unsafe Buildings Code, as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.

(f) Madison Heights' Business Regulations and Licensing Ordinance (Chapter 7), as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.

(g) Madison Heights' Fire Prevention Protection Ordinance (Chapter 12), including but not limited to the International Fire Code (as adopted by the city), as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.

(h) Madison Heights' Public Nuisance, Blight and Noise Ordinance (Chapter 17), including but not limited to compliance with other misdemeanor and/or civil violation ordinances, as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.

(i) International Property Maintenance Code (as adopted by the city), as amended from time to time, and the rules, regulations, and guidance documents promulgated or published thereunder.

### **Section 14-3. - Hours of Operation and Other Requirements:**

A Solid waste disposal area shall only be open from 8:00 a.m. to 4:00 p.m., Monday through Friday. The owner, operator, person, firm, partnership, association, company or corporation, of the Solid waste disposal area shall do the following:

(a) Provide facility security and safety, including the installation of security cameras (both inside and outside of the buildings and/or structures) and the posting of a security guard at all times, whether the Solid waste disposal area is open or closed, in order to prevent trespassers or vandals from entering on the grounds or into the buildings and structures and to assist in the prosecution of such trespassers or vandals.

(b) Provide noise, litter, odor and dust controls in order to prevent the Solid waste disposal area from becoming a public nuisance, an attractive nuisance, a blighted area, and/or an area where loud, frequent or long-continued noise disturbs the comfort or repose of any person, a violation of which shall be considered a nuisance per se and unlawful.

(c) Ensure that vehicles entering and exiting the Solid waste disposal area shall be scheduled in a manner that will achieve an efficient flow of traffic and avoid congestion, both on-site and on public roadways. The hauling of materials to the Solid waste disposal area shall be confined to paved public arterial routes approved by the city. Vehicles hauling materials shall have clean wheels (tires and rims), cabs, trailers, and equivalent, before reentering a public access road. All Solid waste disposal area internal roads and public roads shall be kept free from materials attributable, directly or indirectly, to the Solid waste disposal operation.

(d) Prevent the drifting or airborne transmission beyond the Solid waste disposal property line of dust, particles, or debris.

- (e) Keep accurate records and reports regarding their operations, including a list of those wastes accepted, banned or prohibited. Upon request, a copy of these records shall be turned over to city officials.
- (f) Maintain and pay for the repairs of any internal roads, leading from the public street into the Solid waste disposal area, even if that road is shared with another city entity or agency, and any internal roads inside of the Solid waste disposal area.
- (g) Maintain (but not use) the safety of any incinerator or former incinerator chimneys, chimney stacks, or equivalent, in accordance with all recognized industry standards.
- (h) Maintain (but not use) any incinerator or former incinerator chimneys, or equivalent, inside of the buildings, facilities, and/or structures.
- (i) Permit the city's fire code official, the city's building official and/or the city's director of public services, or equivalent, to enter upon and inspect the Solid waste disposal area and any buildings facilities and/or structures (both exterior and interior) located therein or thereon.
- (j) Pay any and all fees, taxes and sums levied and permitted by law.

### **ARTICLE III- RECYCLING**

#### **Section 14-4. - Yard waste transfer facility:**

A Yard waste transfer facility, including any expansion of an existing facility, shall be permissible only as a use by special approval in accordance with section 10.508(5)(b) of the city's zoning ordinances and subject to the following regulations:

- (a) If the site abuts property which is residentially zoned, a buffer zone shall be maintained where no storage, transfer or loading activities will take place within 150 feet of any existing residential district and within 100 feet of all adjoining property lines. All buffer areas shall be maintained as landscape strips to facilitate screening and buffering.
- (b) All site access roads, drives, material handling, storage and transfer areas, and all areas for truck, visitor and employee parking shall be paved with asphalt or concrete.
- (c) Adequate parking shall be provided for all employees and visitors.
- (d) The site shall be controlled to prevent unauthorized access during non-business hours.
- (e) All transfer operations shall be screened from public view in a manner that provides complete screening between the site and all adjacent properties and rights-of-way.
- (f) No compostable material may remain on-site longer than twenty-four (24) hours.

(g) In order to contain windblown debris, chain link fencing shall be installed and maintained around all areas of the site that are utilized in any phase of the compostables transfer process. Council shall determine the appropriate location and height of required fencing during special approval review after consideration of the site characteristics, proposed design, adjacent land uses, and prevailing wind patterns.

(h) Overnight storage or parking of loaded vehicles shall not be permitted.

(i) If public access is provided to the site for the drop-off of compostable material the public drop-off area shall be fully separated from the transfer operation and the operator shall clearly demonstrate that the public health and safety are protected while on site.

(j) The compostable material transfer process shall be properly managed and maintained in an aerobic condition to beyond the property line.

#### **Section 14.5 - Yard waste composting facilities:**

A Yard waste composting facility, including any expansion of an existing facility, shall be permissible only as a use by special approval in accordance with section 10.508(5)(c) of the city's zoning ordinances and subject to the following regulations:

(a) If the site abuts property which is residentially zoned, a buffer zone should be maintained where no composting, storage, transfer or loading activities will take place within 300 feet of any existing residential districts and 100 feet of all adjoining property lines. All buffer areas shall be maintained as landscape strips to facilitate screening and buffering.

(b) All site access roads, drives, material handling, storage and transfer areas, and all areas for truck, visitor and employee parking shall be paved with asphalt or concrete.

(c) Adequate parking shall be provided for all employees and visitors.

(d) The site shall be controlled to prevent unauthorized access during non-business hours.

(e) The site shall be well drained and designed such that all natural or generated runoff is contained within the site.

(f) The compost site, and all related operations, shall be screened from adjacent public rights of way, properties, and public view, by a land form buffer, buffer strip, screening wall and adjacent greenbelt, or combination thereof. Council may require additional landscaping or screening where it determines it to be necessary to prevent negative impacts on adjacent properties.

(g) In order to contain windblown debris, chain link fencing shall be installed and maintained around all areas of the site that are utilized in any phase of the composting process. Council shall determine the appropriate location and height of required fencing during special approval review

after consideration of the site characteristics, proposed design, adjacent land uses, and prevailing wind patterns.

- (h) Only compostable material shall be composted at such facilities.
- (i) The decomposition process shall be managed and maintained in an aerobic condition to prevent an odor nuisance beyond the property line.
- (j) Ponded water shall not be permitted to collect on a yard waste composting facility site.
- (k) If public access is provided to the site for the drop-off, or pick-up of compostable material the public drop-off area shall be fully separated from the composting operation and the operator shall clearly demonstrate that the public health and safety are protected while on site.
- (l) Overnight storage or parking of loaded vehicles shall not be permitted.
- (m) Copies of all Michigan Department of Environmental Quality applications and/or permits, if required, shall be provided with the application.

#### **Section 14.6 – Recycling drop-off center**

Recycling drop-off center is intended to serve the public by providing a convenient and safe place, in a location normally used by the public, to drop off their recyclable materials. Due to the area required for this type of facility, recycling drop-off centers shall be permissible only as a use by special approval in accordance with section 10.508(5)(d) of the city's zoning ordinances and subject to the following regulations:

- (a) If the site abuts property that is residentially zoned, a buffer zone shall be maintained where no drop-off activities will take place within 100 feet from any existing buildings and not within any required front yard.
- (b) The site shall be well drained and designed such that all natural or generated runoff is contained within the site.
- (c) The recycling drop-off center shall be screened from adjacent public rights of way and properties, and from public view, by a land form buffer, buffer strip, screening wall and adjacent greenbelt, or a combination of thereof. Council may require additional landscaping or screening where it determines it to be necessary to prevent negative impacts on adjacent properties.
- (d) The types of recyclable materials to be collected shall be approved by council as part of the special approval process. No motor oil, batteries, paint, lead, mercury or other hazardous materials shall be collected.

(e) The operator shall provide plans showing all container locations and screening. Plans shall show the location of entrances, exits and unloading areas for the location as well as the distances to property lines and any adjacent residential districts.

**Section 14.7 – Recycling transfer facilities:**

Due to the large volume of truck traffic, storage and recyclable material handling, combined with the increased possibility of odor, noise, dust and debris, recycling transfer facilities shall be permissible only as a use by special approval in accordance with section 10.508(5)(e) of the city’s zoning ordinances and subject to the following regulations:

- (a) If the site abuts property that is residentially zoned, a buffer zone shall be maintained where no storage, transfer or loading activities will take place within 150 feet of any existing residential district and within 100 feet of all adjoining property lines. All buffer areas shall be maintained as vegetative strips to facilitate screening and buffering.
- (b) All site access roads, drives, material handling, storage and transfer areas, and all areas for truck, visitor and employee parking shall be paved with asphalt or concrete.
- (c) Adequate parking shall be provided for all employees and visitors.
- (d) The site shall be controlled to prevent unauthorized access during non-business hours.
- (e) All transfer operations shall be conducted inside a fully enclosed structure.
- (f) No recyclable materials may remain on-site longer than seven (7) calendar days.
- (g) Overnight storage or parking of leaded vehicles shall not be permitted.
- (h) If public access is provided to the site for the drop-off of recyclable materials the public drop-off area shall be fully separated from the transfer operation and the operator shall clearly demonstrate that the public health and safety are protected while on the site.

**Section 14.8 - Recycling processing facilities:**

Due to the large volume of truck traffic, storage and recyclable material handling, combined with the increased possibility of odor, noise, dust and debris, recycling processing facilities shall be permissible only as a use by special approval in accordance with section 10.508(5)(f) of the city’s zoning ordinances and subject to the following regulations:

- (a) All site access roads, drives, material handling, storage and transfer areas, and all areas for truck, visitor and employee parking shall be paved with asphalt or concrete.
- (b) Adequate parking shall be provided for all employees and visitors.
- (c) The site shall be controlled to prevent unauthorized access during non-business hours.

- (d) All transfer operations shall be conducted inside a fully enclosed structure.
- (e) Overnight storage or parking of leaded vehicles shall not be permitted.
- (f) If public access is provided to the site for the drop-off of recyclable materials the public drop-off area shall be fully separated from the transfer operation and the operator shall clearly demonstrate that the public health and safety are protected while on the site.
- (g) All processing shall be conducted inside a fully enclosed building.
- (h) If the site abuts property which is residentially zoned a buffer zone shall be maintained where no recycling, storage, transfer or loading activities will take place within 300 feet from existing residences and within 100 feet of all adjoining property lines. All buffer areas shall be maintained as vegetative strips to facilitate screening and buffering.
- (i) The recycling process center shall be screened from adjacent public rights of way and properties by a land form buffer, buffer strip, screening wall and adjacent greenbelt, or a combination of thereof. Council may require additional landscaping or screening where it determines it to be necessary to prevent negative impacts on adjacent properties.
- (j) In order to contain windblown debris and provide security, chain link fencing shall be installed and maintained around all areas of the site which are utilized in any phase of the recycling process. Council shall determine the appropriate location and height of required fencing during special approval review after consideration of the site characteristics, proposed design, adjacent land uses, and prevailing wind patterns.
- (k) The types of materials to be recycled shall be approved by council as part of the special approval process.
- (l) Copies of all Michigan Department of Environmental Quality applications and/or permits, if required, shall be provided with the application.

**Section 14.9 – Miscellaneous.**

- (a) Yard waste transfer facilities, Yard waste composting facilities, Recycling drop-off centers, Recycling transfer facilities, and Recycling processing facilities shall utilize materials, equipment and processes which are clean, quiet and free from any objectionable or dangerous nuisance or hazard including odors and windborne dust or debris and shall comply with all other performance standards contained herein, in section 10.509 of the city's zoning ordinance and any other standard imposed as a condition of special approval.
- (b) Failure to maintain and operate the facility in a responsible manner that minimizes the potential for adverse impacts on neighboring properties, or in compliance with the conditions of the special use permit, shall constitute grounds for immediate revocation of the special use permit by the city and the penalties specified in section 14.18.

### **ARTICLE III- RESIDENTS**

#### **Section 14.10 - Authorized recyclable materials.**

(a) Residents or occupants of any house, home, dwelling, apartment building or structure of any kind or description whatsoever, intended as a place where people live in the city (collectively “premises”), shall separate authorized recyclable materials and place them in an authorized container at the curb on their normal garbage pickup day and in the manner set out in this ordinance, or for multiple dwellings or apartment buildings, at approved locations on the site in authorized containers.

(b) Due to the rapidly changing technology in the area of recycling, authorized recyclable materials and authorized containers may change from time to time based upon available markets, transportation vehicle sizes, and pickup methods. To keep the public informed of the current authorized recyclable materials and authorized containers, the city shall on a regular basis distribute in newsletter form, or to be included with other information in an appropriate newsletter, details and listings of the then current authorized recyclable materials and authorized containers. In addition, the city shall provide a leaflet containing a list and details of the current authorized recyclable materials and authorized containers, which leaflets shall be available for pickup by the public at the city clerk’s office, the information desk at City Hall and the department of public services.

#### **Section 14-11. – Deposit in required receptacles; kind; placement, use.**

(a) All yards, alleys, streets, vacant lots or other places in the city shall be kept free from garbage, bulky waste and rubbish. Garbage, bulky waste and rubbish shall be deposited in an appropriate container or placed for collection as set out in this ordinance.

(b) The residents or occupants of any premises shall provide a covered, watertight container with handles, not exceeding a 30-gallon capacity, for receipt of garbage and rubbish, but not compostable material, or shall have approved containers compatible with the city-authorized mechanical handling equipment.

(c) For composting purposes, compostable materials will not be collected by the city from any premises unless it is placed in a container approved by the director of the department of public services or his or her designee.

(d) All containers shall be placed in a convenient location for collection at the proper time. The city shall not collect bulky waste or containers holding garbage, bulky waste, rubbish or compostable which weigh over 50 pounds.

(e) No containers, rubbish, bulky waste or other materials to be disposed of shall be placed in any public street, alley or other public place, or in front or side yard, prior to 12 hours before the

regular collection time, and said containers shall be removed from said places not later than 12 hours after collections are made.

(f) Containers and bulky waste on collection day shall be placed between the curb and the sidewalk unless otherwise authorized. Except for compostable materials, the use of plastic containers will be permitted, provided, that tops of the same are secured to prevent garbage, paper or debris from spilling or otherwise escaping the confines of such containers. At no time will the use of paper bags be permitted, except to hold newspapers as set out in subparagraph (f) of this section.

(g) Stacks of newspapers or boxes may be placed at the curb without being in a container if said newspapers or boxes are placed in paper bags.

(h) Small tree limbs, two inches and less in diameter, shall be collected only if they have been cut into lengths not to exceed three feet in length and tied securely into bundles not to exceed three feet in length and tied securely into bundles not to exceed three feet in girth. In lieu of this paragraph, brush-chipping services are available as specified under subparagraph (i) of this section.

(i) The city will provide brush-chipping services upon request of the landowner or occupant of the premises. The fee for brush chipping services has previously been established by resolution of the city council. The individual making the request for services will be billed after the services are rendered.

(j) If payment is not received within 30 days after the services are billed, the director of the department of public services shall make a sworn statement of said account and deliver the same to the city clerk. The city clerk shall certify them forthwith to the city treasurer. The city treasurer shall then enforce payment for those services as prescribed in this chapter for the collection of special assessment.

#### **Section 14-12. – Garbage to be drained of liquids.**

No resident or occupant shall place in any garbage container any materials that have not been well drained of all liquids.

#### **Section 14-13. – Scavenging of authorized recyclable materials prohibited.**

Recyclable materials placed appropriately at the curb in accordance with this chapter shall become the exclusive property of the city or the city's authorized recycler. There shall be a presumption that the residents or occupants intended to recycle materials under this chapter if the authorized recyclable material is placed at curbside as provided in this chapter.

**Section 14-14. – Unauthorized collection prohibited.**

No resident or occupant shall dispose of any bulky waste, rubbish or garbage except to an authorized collector of the city.

**Section 14-15. – Vehicles.**

Any vehicles used for the purpose of conveying bulky waste, rubbish or garbage shall be constructed, covered and equipped so as to prevent any of the contents thereof from leaking, spilling, falling or blowing off, and any such vehicle, when not in immediate use, shall not be stored or parked in any street, alley or public place so as to become offensive or a hazard to any person.

**Section 14-16. – Burning restrictions.**

(a) Burning of rubbish, garbage, paper, wood, leaves, branches, or any other waste material shall be prohibited within the city.

(b) A person shall not kindle or maintain any bonfire nor shall it be maintained on any premises without having obtained a permit or other proper authorization from the fire chief or his or her designate. Provided, however, that such permit shall only permit burning in accordance with the International Fire Code as heretofore adopted by the City of Madison Heights.

**ARTICLE IV-ENFORCEMENT**

**Section 14-17 - Enforcement of ordinance.**

(a) Authorized employees and representatives of the police department, the community development department, the fire department and the county health department are hereby authorized to issue citations or warrants to any person violating the provisions of this chapter.

(b) The director of the department of public services or his or her designee shall have the authority to promulgate rules and regulations concerning the implementation of this chapter and the design and availability of recycling and/or compostable containers.

**Sec. 14-18. – Penalties.**

Any person, corporation, limited liability company, partnership, association, firm, resident or occupant who violates the provisions of sections 14-10, 14-11 and/or 14-12 of this ordinance shall be deemed responsible for a civil infraction for which a civil fine in the amount not to exceed \$100.00 may be ordered. A separate offense shall be deemed committed on each day during or at which a violation occurs. All other violations of this ordinance shall be deemed a criminal misdemeanor punishable by a fine in an amount not exceeding \$500.00 or imprisonment for a term not exceeding 90 days, or both.

**Section 14-19. Effective Date.**

These amendments shall take effect ten (10) days after its adoption and upon publication as provided for by the Charter of the City of Madison Heights.

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

**SECTION 3. SEVERABILITY.**

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**SECTION 4. SAVINGS.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

**SECTION 5. EFFECTIVE DATE.**

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

**SECTION 6. ENACTMENT.**

A copy of this ordinance may be inspected or purchased at the city clerk's office between the hours of 8:00 a.m. and 4:30 p.m. on regular business days.

**ORDINANCE NO. 2140**

**CITY OF MADISON HEIGHTS,  
OAKLAND COUNTY, MICHIGAN**

**AMENDMENT TO THE CODE OF ORDINANCES**

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights by amending Chapter 12, Article IV, Section 12-72(a) of the Code of Ordinances, City of Madison Heights, Michigan, to prohibit the ignition, discharge, or use of consumer fireworks except on the days that state law preempts a local unit of government from regulating the ignition, discharge, or use of consumer fireworks and to set the penalty for violations.

**THE CITY OF MADISON HEIGHTS ORDAINS:**

**SECTION 1. Amendment.**

That Chapter 12, Article IV, Section 12-72(a) of the Code of Ordinances, City of Madison Heights, Michigan, is amended in its entirety to read as follows:

**ARTICLE IV. FIREWORKS**

Sec. 12-72. - Ignition, discharge and use of consumer fireworks.

- (a) A person shall not ignite, discharge or use consumer fireworks except on the following days after 11 a.m.:
- (1) December 31 until 1 a.m. on January 1.
  - (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
  - (3) June 29 to July 4 until 11:45 p.m. on each of those days.
  - (4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
  - (5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

A person that violates this subsection is responsible for a civil infraction and shall be ordered to pay a civil fine of \$1000.00 for each violation and no other fine or sanction shall be imposed. \$500.00 of the fine collected shall be remitted to the Madison Heights Police Department.

- (1) Exception. The city, upon application in writing on forms provided by the city and payment of a fee set by council, if any, may grant a permit for the ignition, discharge or use of consumer fireworks within the city, on days other than the days listed in subsection (a). After a permit has been granted, use of consumer fireworks, for the purposes described in the permit only, may be made in

conformance with this section. A permit granted under this subsection is not transferable and shall not be issued to a minor.

- (i) Before a permit for consumer fireworks ignition is issued, the person, firm, or corporation applying for the permit shall furnish proof of insurance in an amount, character, and form deemed necessary by the city to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, to protect the public health, safety and welfare.
- (ii) The city shall rule on the competency and qualifications of the applicant as required under NFPA 1123, and on the time, place, and safety aspects of the ignition, discharge or use of consumer fireworks, before granting a permit.

## **SECTION 2. Repealer.**

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

## **SECTION 3. Severability.**

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

## **SECTION 4. Savings.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

## **SECTION 5. Effective Date.**

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

## **SECTION 6. Inspection.**

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.

First Reading – May 13, 2019

Second Reading – May 28, 2019

Effective – June 6, 2019