

07/13/2016

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND SECTIONS 84-1 AND 84-4, AND TO REPEAL SECTION 84-16 OF CHAPTER 84 PROPERTY MAINTENANCE CODE, AND TO REPEAL SECTION 138-10.308 OF CHAPTER 138, ZONING, AND REPLACE IT WITH NEW SECTION 138-10.308, AND TO AMEND SECTION 138-13.101 OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN TO MODIFY REGULATIONS REGARDING PARKING AND STORAGE OF COMMERCIAL AND RECREATIONAL VEHICLES, EQUIPMENT AND JUNK VEHICLES IN THE ZONING ORDINANCE, REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 84-1, of Chapter 84, Property Maintenance Code, of the Code of Ordinances shall be amended, as follows:

**Sec. 84-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adjoining property* owner means a person who solely or jointly holds an ownership interest in property adjoining or contiguous to a sidewalk or who is purchasing such property under a land contract. Where applicable, the term “adjoining property owner” shall include homeowners’ associations and condominium associations.

*Brush* means cut or broken branches.

*Building materials* includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, structural or miscellaneous steel, nails, or any other materials used in construction.

~~*Bus* means a motor vehicle, other than a trailer, designed to carry more than 15 passengers. The term does not include a school bus or a motor vehicle that is converted, equipped and used for living or camping purposes.~~

~~*Camper enclosure* means a structure or enclosure designed for mounting on a pickup truck or truck chassis in such a manner as to provide temporary living or sleeping quarters, including but not limited to a slide-in camper or truck cap.~~

~~*Commercial equipment* means any machinery, parts, accessories, construction equipment or other equipment used primarily in the course of conducting a trade or business, and roll-off dumpsters and portable storage units in residential districts.~~

~~*Commercial vehicle* means any vehicle used to generate income or which has the appearance that it is used for business, due to size, type, signage and/or accessories. A pickup truck, passenger/cargo style van with seating of up to 15 persons, sports/utility vehicle and passenger car without signage and accessories shall not be considered, for purposes of this chapter, as a commercial vehicle, even though used in business.~~

~~*Construction equipment* means a bulldozer, front-end loader, backhoe, power shovel, cement mixer, trencher, and any other equipment designed or used for construction, including parts and accessories thereto, and trailers designed for the transportation of such equipment.~~

*Exotic invasive plant species* means a plant species that is not originally native to the area and has no natural controls and is able to out-compete and gradually displace native plants.

*Exterior property* means the open space on the premises and on adjoining property under the control of owners or operators of such premises.

*Extermination* means the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

*Fence* means and includes any wall, barrier, screen or other structure installed for the purpose of separating, screening, obscuring or protecting property.

*Garage sale* means a sale of used household effects, appliances, clothing, china, glassware and other such items by a person from their residence by means of a display of such items in the yard, garage, patio, parking area or other like place in, around or near such residence. "Garage sale" also means an estate sale and/or auction conducted at or around a residence or in a residential subdivision. It shall not mean the sale of a single automobile by means of a "For Sale" sign on the vehicle.

*Garbage* means the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Infestation* means the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

*Handbill* means any printed or written matter, sample, device, circular, leaflet, pamphlet, paper, booklet or other writing intended for distribution, but not including signs or newspapers.

*Junk* includes parts of machinery or motor vehicles; unused stoves, refrigerators or other appliances stored in the open; remnants of wood; metal; or any other material or castoff material of any kind, whether or not such could be put to any reasonable use at some future time.

*Landscaping materials* included but is not limited to dirt, sand, stone, rocks, block, timbers, plantings, wood chips/mulch, or any other materials used in landscaping.

*Litter* means all trash, rubbish, combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal and other combustible materials, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

*Native plant* means a plant species that has naturally evolved in the local region over thousands of years under certain soil, hydrologic and other site conditions.

*Natural landscaped area* means premises that are landscaped so as to exhibit the deliberate and conscious decision to plant, cultivate and maintain those native plant species identified as wildflower, grass, shrub or tree. This landscaping tries to capture the character and spirit of nature in a designed landscape by arranging plants in a community context, similar to their arrangement in nature.

*Newspaper* shall mean and include any newspaper of general circulation, as defined by general law, any newspaper duly entered with the United States Postal Service, in accordance with federal law or regulation, and any newspaper filed and recorded with any recording officer, as provided by general law: and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold or distributed to the public.

*Noxious weeds* includes Canada thistle (*circium arvense*), dodders (any species of *cuscuta*), mustards (charlock, black mustard and indian mustard, species of *brassica* or *sinapis*), wild carrot (*daucus carota*), bindweed (*convolvulus arvensis*), perennial sowthistle (*sonchus arvensis*), hoary alyssum (*berteroa incana*), ragweed (*ambrosia elatior* 1), poison ivy (*rhus toxicodendron*), poison sumac (*toxicodendron vernix*), oxeye daisies, goldenrod, all types of exotic invasive plant species, grass or weeds of a height exceeding eight inches, or other plant which is determined by the city to be deleterious to health, safety, or public welfare or a common nuisance.

*Occupant* means any person living or sleeping in a building, or having possession of a space within a building.

*Owner* means any person, agent, operator, firm or corporation having a legal or equitable ownership interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

~~*Portable storage container* means a purpose/built transportable, fully enclosed, box-like container that is designed for temporary storage of materials and/or equipment.~~

*Public place* shall mean and include any and all streets, boulevards, avenues, lanes, alleys or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

~~*Recreational vehicle* means a mobile structure or unit designed or altered to provide temporary living quarters for recreation, camping or travel use, but not for commercial use. It may be self-propelled or designed to be drawn by a motor vehicle. The term "recreational vehicle" includes but is not limited to a motor home, truck camper, travel trailer, folding camping trailer, or a converted van or bus.~~

*Residential district* means any R-1, R 2, R-3, R-4, RCD, RM-1, MH or SP elderly housing zoning district.

*Roll-off debris container* means an open-top metal box used for the containment of construction or demolition debris, yard waste, or other similar waste and/or debris items. Such containers generally range in size between ten and 40 cubic yards and between three and six feet in height and are commonly transported by flatbed truck.

~~*School bus* means a motor vehicle, other than a station wagon, with a manufacturer's rated seating capacity of eight or more children, which is owned by a public, private or governmental agency and which is operated for the transportation of children to or from school. The term also means a motor vehicle, other than a station wagon, that is privately owned and operated for compensation for the transportation of children to or from school.~~

*Public sidewalk* means a public pathway constructed of concrete for public use, five feet in width, and located on public streets.

*Structure* means that which is built or constructed on the ground or a portion thereof.

*Swimming pool* means any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

~~*Trailer* means a vehicle, other than a utility trailer, designed for carrying property and for being drawn by a motor vehicle.~~

~~*Truck tractor* means a truck designed primarily for drawing another vehicle and not so constructed as to carry a load other than a part of the weight of the vehicle or trailer and of the load so drawn.~~

*Unlicensed/inoperable* includes any motor vehicle that is kept, parked or stored, other than in a completely enclosed building, and is not in operating condition, is not properly licensed or is incapable of performing the transportation function for which it was manufactured.

~~*Utility trailer* means a vehicle designed to be towed by a motor vehicle in order to carry personal property, including but not limited to firewood, refuse, snowmobiles, boats, motorcycles or recreational equipment, or used solely for noncommercial purposes.~~

*Vehicle* means any device in, upon, or by which a person or property may be transported or drawn.

Section 2. Section 84-4, of Chapter 84, Property Maintenance Code, of the Code of Ordinances shall be amended, as follows:

**Sec. 84-4. Blight.**

(a) *Causes of blight or blighting factors.* It is determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods:

(1) *Unlicensed/inoperable/unused/junk vehicles.* In any area zoned for residential purposes, the storage upon any property of unlicensed, inoperable, unused or junk ~~automobiles~~vehicles, except as follows:

a. ~~in~~ in a completely enclosed building.

b. A motor vehicle which does not otherwise comply with the requirements of this section may be stored outdoors if a family member is in active military service or other similar reason and the vehicle is determined by the building department to be not detrimental to the area. The building department may grant the right to store the vehicle for such period under the best conditions available, which shall be stated in writing. A vehicle shall not be stored unused in the front yard for more that 90 days. After 90

days, the vehicle must be stored in a side or rear yard. Unused vehicles stored under a tarp must be stored in a side or a rear yard.

- (2) *Building materials.* In any area zoned for residential purposes, the storage upon any property of building materials unless there is in force a valid building permit issued by the city for construction upon the property and the materials are intended for use in connection with such construction.
- (3) *Junk.* In any area zoned for residential purposes, the storage or accumulation of junk, trash, appliances, rubbish, or refuse of any kind, except for domestic refuse stored in a covered container for a period not to exceed 30 days; firewood that is neatly stacked so as not to provide harborage for rodents and vermin; and yard waste compost piles that are properly maintained to prevent odor, rodent, vermin or insect nuisances.
- (4) *Uninhabitable structures.*
  - a. *Due to disaster.* In any area, the existence of any structure or part of a structure which, because of fire, wind, storm, or other disaster, is no longer habitable as a dwelling or is not safe or useful for any other purpose for which it may have been intended and is left in that condition for a period of more than six months.
  - b. *Due to physical deterioration.* In any area, the existence of any structure or part of a structure which, because of physical deterioration, is no longer habitable as a dwelling or is not safe or useful for any other purpose for which it may have been intended.
- (5) *Partially completed structures.* In any area, the existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the city and unless such construction is completed within the life of the building permit or a valid extension thereof.
- (6) *Public roads and utility rights-of-way.* In any area, allowing any of the causes of blight or blighting factors in subsections (1) through (5), of this section to exist on any public road right-of-way located between private property and an existing or dedicated street, alley, road or highway or upon any public utility easement or right-of-way located adjacent to such property.
- (7) *Firewood.* Storage of firewood; removal of cleared brush.
  - a. Firewood shall be stacked in a neat, orderly manner, and when outdoors at least six inches from any building or structure. Firewood shall not be stored in the front yard of any parcel occupied for single-family residential use.

- b. Within 15 days of the cutting or clearing of any trees, brush or other vegetation (but not including farm products), wood to be retained as firewood shall be stacked in accordance with subsection a., above, and all other cleared brush and vegetation material shall be removed from the site.
  - c. Compliance with subsections a. and b. shall be the responsibility of both the owner and any occupant or other person in possession or control of the premises.
- (8) *Compost piles.* Compost piles may include a combination of yard and garden waste (such as weeds, bark, grass clippings, stalks and stems, brush or vines), wood ashes, horse manure, coffee grounds, vegetable scraps, citrus rinds and fruit peelings, egg, peanut and nut shells. Compost piles shall not include meats, dairy products, vegetable oils, cooked foods, or plastics, synthetics or other non-biodegradable materials. Compost piles shall not be located within any drainage easement. Compost piles shall not be located in any side yard or closer than five feet to any property line. Compost piles shall not exceed four feet by eight feet or six feet in diameter and shall not exceed four feet in height. Double compost piles may be utilized, provided the total size does not exceed the above. Compost piles shall be maintained in a manner to prevent the escape of offensive odors to adjacent property.
- (9) *Landscaping.* All exterior property areas shall be kept free from vegetation, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations, or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.
- (10) *Appliances.* It shall be unlawful for any person to place at the roadside for collection by a solid waste contractor, any ice box, refrigerator, deep freeze or other device with doors within the city unless all doors of the icebox, refrigerator, deep freeze or other device with doors shall have been removed prior to such disposal.
- (b) *Responsibilities of property owners, tenants and occupants.*
- (1) *Property owners.* No property owner shall maintain or permit to be maintained any of the causes of blight or blighting factors set forth in chapter 84 or chapter 46 upon any property in the city owned by such person.
  - (2) *Occupants.* Any occupant of property in the city shall also be responsible for any of the causes of blight or blighting factors set forth in chapter 46 that he creates or permits on the property leased or occupied by him.
- (c) *Applicability to non-residential areas.*
- (1) *Generally.* The causes of blight or blighting factors set forth in chapter 46 as applicable to areas zoned for residential purposes are also determined to be causes

of blight or blighting factors and subject to the prohibitions of this chapter if located in areas zoned for non-residential purposes, unless such uses of property are incidental to and necessary for the carrying out of any business or occupation lawfully being carried on upon the property in question.

- (2) *Considerations.* For purposes of this article, such business or occupation shall be considered lawful only when being carried out in a manner as prescribed by chapter 138 pertaining to zoning and any other applicable provisions, laws, or regulations of the city, county, state or federal governments. The proof that such use is incidental to and necessary for the carrying out of such business shall rest with the owner or user of the property and such use shall not, in any case, constitute a hazard to the health or welfare of the citizens of the city.

Section 3. Section 84-16, of Chapter 84, Property Maintenance Code, of the Code of Ordinances shall be repealed in its entirety.

Section 4. Section 138-10.308, of Chapter 138, Zoning, of the Code of Ordinances shall be repealed in its entirety and replaced with the new Section 138-10.308, as follows:

**Sec. 138-10.308. Parking and Storage of Commercial and Recreational Vehicles.**

**A. Commercial Vehicles and Equipment.**

**(1) Public Property.** A person shall not park or store any commercial vehicle identified in paragraph (2)a, below or commercial equipment on public property located in any zoning district, including but not limited to public streets, rights-of-way, bike paths, greenbelts, and planting areas between bike paths and streets, except as allowed in paragraph (4), below.

**(2) Residential Districts.**

**a.** A person shall not park or store any step vans, cube vans, buses, dump trucks, stake trucks, flatbed trucks, wreckers, semi trucks and trailers, tank trucks, commercial and construction equipment and trailers and any similar trucks and equipment in a residential district, except as allowed in paragraph (4), below.

**b.** Commercial vehicles other than as specified in paragraph (2)a, above, such as pickup trucks, passenger/cargo-style vans with seating of up to fifteen (15) persons, sport utility vehicles, passenger cars, and similar type vehicles, with no more than allowed accessories as provided in paragraph (2)d, below, may be parked or stored in a residential district.

**c.** A maximum of one (1) commercial vehicle of the type described in paragraph (2)b, above, which is used for transportation by occupants of the home on the property shall be stored or parked outside of an enclosed building.

**d.** Allowed accessories shall mean equipment attached to vehicles which

does not extend a vehicle to more than nine (9) feet in height or wider or longer than the manufacturer's specification for the vehicle without the equipment. Roof accessory racks, but not side racks, shall be allowed. A plow on the front and a spreader on the rear of a vehicle may be attached even if the length of the vehicle is extended beyond the manufacturer's specification.

e. A person shall not park or store a vehicle outside of an enclosed building in a residential district if there is a sign on it not directly related to the vehicle's use.

(3) **Nonresidential Districts.** A person shall not park or store any commercial vehicle identified in paragraph (2)a, above, or commercial equipment on private property in any nonresidential district except as is allowed in paragraph (4), below, or unless such vehicle or equipment is parked or stored in relation to a permitted principal or accessory use of the property. In such event, parking or storage must comply with all other city codes and ordinances.

(4) **Exception.** The parking or storage of commercial vehicles identified in paragraph (2)a, above, or commercial equipment shall be allowed in any zoning district, where such parking or storage is limited to vehicles or equipment engaged in the performance of a service on the adjacent or underlying property, for the period of time reasonably necessary to complete the service.

#### **B. Vehicle for Sale.**

(1) A person shall not park any motor vehicle on any private property in the city without the expressed or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property.

(2) A person shall not park any motor vehicle on any private property, with or without consent of the owner, within 100 feet of a street right-of-way with a speed limit greater than 25 MPH for the principal purpose of displaying the vehicle for sale, displaying, advertising, or selling merchandise from such vehicle, except within the defined limits of a duly established new or used automobile dealership or sales lot, which shall not include bike paths adjacent to any automobile dealership or sales lot, or when so authorized or licensed under the ordinance code provisions of the city.

#### **C. Recreational Vehicles.**

(1) A person shall not park and/or store a recreational vehicle, snowmobile, camper enclosure, utility trailer, boat or similar vehicle or equipment not owned by the occupant or owner of the premises for a period exceeding seventy-two (72) hours on lands not approved for such parking or storage, except that the building department may grant a temporary permit allowing the parking of a recreational vehicle on private property not to exceed a period of two weeks. All recreational vehicles, snowmobiles, camper enclosures, utility trailers, boats, and similar vehicles or equipment owned by city residents stored in residential districts on

their individual lots or premises shall not be stored within any front yard or any required side yard and shall further conform to the requirements of the zoning ordinance applicable to accessory buildings, insofar as distances from main buildings, lot lines, and rights-of-way are concerned.

(2) The parking and storage of recreational vehicles, snowmobiles, camper enclosures, utility trailers, boats and similar vehicles or equipment in residential districts shall be subject to the following restrictions:

a. All such units parked or stored outside of a completely enclosed building shall be kept in a state of proper repair and secured to prevent unauthorized entry.

b. The parking and storage of such units shall be limited to a lot or parcel upon which an occupied dwelling is located.

c. All such units shall not be connected to electricity, gas, water or sanitary sewer facilities, except that a temporary electrical connection may be made for the purpose of recharging batteries.

d. All such units shall not at any time be used for living or housekeeping purposes while on the premises.

e. A person shall not park or store any such unit upon any public property, including public streets, stub streets, rights-of-way, bike paths and planting areas between pathways and streets, except as allowed in paragraph (2)f, below.

f. Notwithstanding any provisions to the contrary, such a unit may be temporarily parked or stored within any front yard or on a public street for a period not to exceed seventy-two (72) hours for the purpose of loading, unloading, trip preparation or minor, routine maintenance and repair, although at no time shall any unmounted camper enclosure or any snowmobile or boat not mounted on a utility trailer be parked or stored within any front yard, required side yard or public street.

**D. Responsibility for Compliance.** The owner of the vehicle, equipment or other unit and the owner or occupant of private property upon which the vehicle, equipment or other unit is parked or stored shall each be responsible for compliance with the terms of this section. In any proceeding for the violation of any section of this section, the person to whom the vehicle, equipment or unit is registered, as determined from the registration plate displayed on the vehicle, equipment or unit, shall be presumed in evidence to be the owner. If no registration plate exists, the owner shall be presumed in evidence to be the titleholder, lessee or other person with an immediate right of possession. For purposes of determining the ownership of real property, it shall be presumed in evidence that the person to whom the property is assessed on the city's most recent tax assessment roll is the owner of the property.

**E. Violations.**

- (1) **Notice.** A written notice of violation of this section shall be served on the person in violation directing the discontinuance and abatement of the illegal action or condition within twenty-four (24) hours. For purposes of serving this notice on a commercial or recreational vehicle owner, it shall be sufficient to affix the notice in a conspicuous place on the vehicle.
- (2) **Failure to Comply.** Failure to comply with the notice of violation shall constitute a violation of this section.
- (3) **Subsequent Violations.** For subsequent or repeat violations by the same person, a written notice of violation shall not be required.

Section 5. Section 138-13.101 of the Code of Ordinances shall be amended to add the following definitions:

*Camper enclosure* means a structure or enclosure designed for mounting on a pickup truck or truck chassis in such a manner as to provide temporary living or sleeping quarters, including but not limited to a slide-in camper or truck cap.

*Commercial equipment* means any machinery, parts, accessories, construction equipment or other equipment used primarily in the course of conducting a trade or business, and roll off dumpsters and portable storage units in residential districts.

*Commercial vehicle* means any vehicle used to generate income or which has the appearance that it is used for business, due to size, type, signage and/or accessories. A pickup truck, passenger/cargo-style van with seating of up to fifteen (15) persons, sports/utility vehicle and passenger car without signage and accessories shall not be considered, for purposes of this chapter, as a commercial vehicle, even though used in business.

*Construction equipment* means a bulldozer, front-end loader, backhoe, power shovel, cement mixer, trencher, and any other equipment designed or used for construction, including parts and accessories thereto, and trailers designed for the transportation of such equipment.

*Recreational vehicle* means a mobile structure or unit designed or altered to provide temporary living quarters for recreation, camping or travel use, but not for commercial use. It may be self-propelled or designed to be drawn by a motor vehicle. The term "recreational vehicle" includes but is not limited to a motor home, truck camper, travel trailer, folding camping trailer, or a converted van or bus.

*Trailer* means a vehicle, other than a utility trailer, designed for carrying property and for being drawn by a motor vehicle.

Utility trailer means a vehicle designed to be towed by a motor vehicle in order to carry personal property, including but not limited to firewood, refuse, snowmobiles, boats, motorcycles or recreational equipment, or used solely for noncommercial purposes.

Vehicle means any device in, upon, or by which a person or property may be transported or drawn.

Section 6. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 7. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, or as otherwise prescribed herein.

Section 8. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on \_\_\_\_\_ following its publication in the *Oakland Press* on \_\_\_\_\_, 2016.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on \_\_\_\_\_, 2016.

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Bryan K. Barnett, Mayor  
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON \_\_\_\_\_, 2016.

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Tina Barton, Clerk  
City of Rochester Hills