

11/04/2008

ORDINANCE NO. \_\_\_\_

AN ORDINANCE TO REPEAL EXISTING ARTICLES II AND III OF CHAPTER 86, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, AND ADOPT NEW ARTICLES II AND III TO REGULATE THE GENERATION, STORAGE, COLLECTION, REMOVAL, DISPOSAL AND COMPOSTING OF SOLID WASTE IN THE CITY; DEFINE TERMS; REGULATE AND LICENSE WASTE HAULERS; ESTABLISH A SINGLE-HAULER WASTE COLLECTION AND DISPOSAL PROGRAM; REPEAL CONFLICTING ORDINANCES AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Existing Articles II and III of Chapter 86 of the Code of Ordinances are repealed in their entirety and replaced with new Articles II and III, as follows:

## **ARTICLE II. GENERAL**

### **Sec. 86-1. Definitions.**

(a) 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:

*Act 451* means Public Act No. 451 of 1994 (MCL 324.101 et seq.)

*Commingled* means recyclable materials that have been mixed at the site of generation and placed in the same container for curbside pickup.

*Compost* means the humuslike product of the composting process.

*Compostables* means yard clippings and residential compostables.

*Container* means a verminproof, watertight, wooden, metallic, plastic or masonry receptacle for the storage and placement of solid waste.

*Curbside* means a location as near as possible to the main-traveled portion of the roadway used for the collection of solid waste, recyclable materials or yard clippings.

*Garbage* means rejected food wastes, including waste accumulation 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, fruits or vegetables.

*Generators of solid waste* means any person who has acquired or stored any litter, recyclable materials and yard clippings at a site of generation.

*Hazardous waste* means waste or a combination of waste and other discarded material, including solid, liquid, semisolid or contained gaseous material, that because of its quantity, quality, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or

serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of or otherwise managed. Hazardous waste does not include material that is solid or dissolved material in domestic sewage discharge, solid or dissolved material in an irrigation return flow discharge, industrial discharge that is a point source subject to permits under section 402 of title IV of the Federal Waste Pollution Control Act, chapter 758, 86 Stat. 880, 33 USC 1342, or is a source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, chapter 1073, 68 Stat. 919.

*Licensed waste hauler* means a waste hauler who has been issued a waste hauler license by the City.

*Litter* means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

*Newspaper* means all newsprint and materials which are part of a newspaper except the glossy inserts placed in the newspaper.

*Premises* means any area of land used for residential, commercial, industrial or governmental purposes, separately or in combination, to which a separate street address, postal address or box number, tax roll description, or other similar identification has been assigned or is in use by a person having control of such area.

*Recyclable materials* means source-separated materials, site-separated materials, high-grade paper, glass, metal, plastic, aluminum, newspaper, corrugated paper, yard clippings and other material deemed to be recyclable materials by duly adopted resolution of the City Council.

*Residential compostables* means organic fruit and vegetable material which is produced incidental to the preparation of food for human consumption in residential structures.

*Rubbish* means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that may be a detriment to the public health and safety.

*Site of generation* means any premises in or on which litter is generated by any person.

*Site-separated material* means glass, metal, wood, paper products, plastics, rubber, textiles, garbage, yard clippings or other material that may be recycled that is separated from solid waste for the purpose of conversion into raw material or new products. Site-separated material does not include the residue remaining after glass, metal, wood, paper products, plastics, rubber, textiles or other recyclable materials is separated from solid waste.

*Site separation* means the act of removing source-separated or site-separated material from rubbish.

*Solid waste* means solid waste as the term is defined in Act 451.

*Solid waste transporting unit* means a container that may be an integral part of a truck or other piece of equipment used for the transportation of solid waste.

*Waste hauler* means any person engaged in the business of collecting solid waste, recyclable materials and yard clippings within the City and hauling, transporting or disposing of such materials.

*Yard clippings* means leaves, grass clippings, vegetables or other garden debris, shrubbery, brush or tree trimmings less than four feet in length and two inches in diameter, that can be converted to compost humus. This term does not include stumps, agricultural wastes, animal waste, roots, sewage, sludge or garbage.

(b) Terms, words and phrases not otherwise specifically defined in this section shall have the meanings ascribed to them in Act 451.

**Sec. 86-2. Prohibited storage and disposal.**

It shall be unlawful for any person to store or dispose of solid waste, recyclable material or yard clippings except as expressly authorized by this chapter.

**Sec. 86-3. Prohibited collection.**

All solid waste, recyclable materials and yard clippings shall become the property of the licensed waste hauler at the time the material is placed at curbside or other designated collection location. It shall be unlawful for any person other than a licensed waste hauler or the generator of the solid waste, recyclable materials or yard clippings to collect or cause to be collected any such waste after it has been placed at curbside or other designated collection location.

**Sec. 86-4. Prohibited placement of waste.**

It shall be unlawful for any person to place or cause to be placed waste which requires payment of a specific charge for disposal upon the premises of another person or with the waste of another person placed at curbside.

**Sec. 86-5. Storage regulations.**

All waste at any site of generation shall be stored in the following manner:

(1) *Solid waste.* All solid waste shall:

- a. Be gathered, stored and placed in a closed container or containers sufficient in number and size to store such waste;
- b. Be shielded from public view upon the site of generation; and
- c. Not be commingled with yard clippings.

(2) *Recyclable materials.* All recyclable materials not commingled with solid waste shall be:

- a. Site-separated from other waste and stored and placed in a recycling collection container suitable for such purpose; or if newspapers or other recyclable paper products, be stored and placed in recycling collection containers, paper bags or tied into bundles weighing not more than 50 pounds; and
- b. Rinsed and cleaned before storage if metal, glass or plastic.

(3) *Residential compostables.* All residential compostables not commingled with solid waste shall be collected, stored and disposed of in accordance with City Code section 84-4(a)(8).

(4) *Yard clippings.* All yard clippings shall be site-separated from other waste and:

- a. Stored in accordance with section 86-6(3); and
- b. Not commingled with solid waste or other recyclable materials

(5) *Other waste.* All other waste at any site of generation shall be stored in accordance with Act 451.

### **Sec. 86-6. Disposal regulations.**

All waste at any site of generation shall be disposed of in the following manner:

(1) *Solid waste.* All solid waste shall be removed from the site of generation at least weekly or before it becomes a nuisance or dangerous to the public health, safety or welfare by a licensed waste hauler.

(2) *Recyclable materials.* All recyclable materials not commingled with solid waste shall be removed from the site of generation at least weekly or before such materials become a nuisance or dangerous to the public health, safety or welfare by a licensed waste hauler.

(3) *Yard clippings.* All yard clippings shall be site-separated from other waste and, unless composted at the site of generation in accordance with section 86-7, removed from the site of generation at least weekly or before such clippings become a nuisance or dangerous to the public health, safety or welfare by:

- a. A licensed waste hauler; or
- b. A person engaged in the business of providing landscaping services.

(4) *Preparation of yard clippings for disposal.* Twigs, brush and branches not exceeding three inches in diameter shall be tied in bundles not more than four feet in length and 18 inches in diameter. All other yard clippings shall be placed in either containers or paper bags clearly marked as yard clippings.

(5) *Other waste.* All other waste at any site of generation shall be disposed of in accordance with Act 451.

(6) *Curbside placement.*

a. No solid waste, recyclable materials, yard clippings or containers for same shall be placed or left at curbside for more than 24 hours;

b. It shall be presumed that the owner, lessee or occupant in physical possession of a site of generation abutting a curbside where solid waste, recyclable materials or yard clippings are located is the person who placed such solid waste, recyclable materials or yard clippings at the curbside; and

c. The presumption of placement may be rebutted by competent evidence.

(7) *Collection refusal by licensed waste hauler.* A licensed waste hauler may refuse to collect solid waste, recyclable materials and yard clippings from any site of generation if such solid waste, recyclable materials or yard clippings are not prepared for disposal in accordance with the provisions of this article.

## **ARTICLE III. WASTE HAULERS**

### **DIVISION 1. LICENSE**

#### **Sec. 86-61. Required.**

It shall be unlawful for any person to operate as a waste hauler within the City without a license being issued to such person in accordance with the provisions of this division.

#### **Sec. 86-62. Application.**

(a) Every waste hauler shall file a written application for a waste hauler license with the Building Department upon a form to be furnished by the Building Department.

(b) The application shall contain all of the following:

- (1) The full name, complete address and telephone number of the applicant and whether the applicant is an individual, partnership, corporation or other form of business entity, and if a corporation, the state of incorporation;
- (2) The name under which the applicant operates or will operate;
- (3) The days and hours the applicant will service sites of generation within the City; and
- (4) The make, model and year of manufacture or the solid waste transporting unit, as well as the capacity of the unit.

(c) The application shall be accompanied by the following:

- (1) The application fee;
- (2) Statistical data regarding the tonnage of solid waste, recyclable materials and yard clippings collected, transported and disposed of from sites of generation in the City by the applicant;
- (3) Statistical data regarding the tonnage of solid waste disposed of from sites of generation in the City at each licensed disposal area utilized by the applicant;
- (4) Certificates of insurance evidencing insurance coverage for the applicant, its agents and employees, for the following coverages:
  - a. Worker's compensation and employer's liability insurance in accordance with state law;
  - b. Commercial general liability insurance on an "Occurrence" basis with limits of liability not less than \$5,000,000 per occurrence;

c. Motor vehicle liability insurance including Michigan no-fault coverage for all vehicles used with limits of liability not less than \$5,000.000 per occurrence and aggregate combined single limit, personal injury, bodily injury and property damage;

d. Commercial general liability and motor vehicle liability insurance shall include an endorsement stating the City shall be an Additional Insured. Such insurance shall be primary to the Additional Insured and not contributing with other insurance available to the City; and

e. The certificates shall provide that the City shall receive 60 days advance written notice of cancellation, non-renewal, reduction or material change in any such insurance coverage for any reason.

(5) A written declaration duly dated and signed by the applicant and given under oath or affirmation and under penalty of perjury that the information contained in and attached to the application is true and correct; and

#### **Sec. 86-63. Issuance or denial.**

(a) The Building Department shall issue a waste hauler license to the applicant unless the investigation or recommendation finds any of the following:

(1) The application or the renewal application fee has not been paid, and, in the case of a check or bank draft, dishonored for payment upon presentment;

(2) Solid waste transporting units do not pass inspection;

(3) The applicant has knowingly made false, misleading or fraudulent statements of fact in the application or in any document required in conjunction with the application;

(4) The applicant has had a waste hauler license or other similar license or permit suspended or revoked by the City prior to the date of the application; or

(5) The applicant or application does not meet all of the requirements of this division or other ordinances of the City.

(b) If the Building Department denies the application, the reasons for the denial and the right to appeal such denial under the provisions of this division shall be specified in writing and mailed by first class mail to the applicant at the address set forth on the application.

#### **Sec. 86-64. License fee.**

The application for the license required by this division shall be accompanied by the license fee for the first refuse transporting unit and the license fee for each additional unit sought to be licensed as set forth in City Code section 54-531. The fees shall be deposited to the general fund of the City.

**Sec. 86-65. Statistical data and fees and charges.**

In order to maintain the validity of a license under this division, the statistical data required in section 86-62 shall be submitted each year on November 1 and May 1 to the Building Department.

**Sec. 86-66. Inspection of Solid Waste Transporting Units.**

The Building Department and Sheriff's Department shall inspect each solid waste transporting unit to determine whether it is roadworthy, proper and hygienic according to this Article and in compliance with applicable state law and City ordinances.

**Sec. 86-67. Expiration.**

Each license issued under the provisions of this division shall expire on May 1 next following the date of issuance and be displayed on each collection vehicle operated within the City.

**Sec. 86-68. Transfer prohibited.**

A license issued pursuant to this division confers authority only upon the waste hauler named in the license and shall not be transferred, assigned, separated or divided by the waste hauler.

**Sec. 86-69. Renewal.**

Any time after March 1 of each year but before the license expires, a waste hauler may file an application to renew its license on a form to be furnished by the Building Department.

**Sec. 86-70. Regulations.**

A licensed waste hauler shall comply with the following regulations:

(1) *Collection hours.*

a. *Domestic.* Solid waste, recyclable materials and yard clippings shall be collected within the City from the curbside of residential sites of generation only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday; except solid waste, recyclable materials and yard clippings may be so collected on a Saturday between those hours when a legal holiday has occurred on a weekday in the immediately preceding week or when scheduled weekday collections have been delayed in the immediately preceding week due to collection vehicle equipment failure beyond the control of the waste hauler.

b. *Commercial and industrial.* Solid waste, recyclable materials and yard clippings shall be collected within the City from commercial and industrial sites of generation only between the hours of 6:00 a.m. and 8:00 p.m., Monday through Friday.

(2) *Delivery to disposal areas.* A waste hauler shall deliver all waste collected in the City to licensed disposal areas authorized to operate pursuant to Act 451.

(3) *Compliance with applicable laws.* A waste hauler shall comply with all federal and state laws, local ordinances and related rules and regulations in the collection, transportation and delivery of solid waste, recyclable materials and yard clippings.

(4) *Hazardous waste.* A waste hauler shall not knowingly collect and deliver hazardous waste to a licensed disposal area.

(5) *Solid waste transporting units and collection vehicles.* All solid waste transporting units and collection vehicles shall:

- a. Be kept clean and free from odors.
- b. Bear on each side in letters at least three inches high the name of the waste hauler and the license decal issued by the Building Department.
- c. Comply with all requirements of Act 451 related to solid waste transporting units.

#### **Sec. 86-71. Suspension.**

(a) Any license issued under this division may be suspended by the Mayor for a period not to exceed 90 days upon any violation of a federal or state law, local ordinance or related rules and regulations in accordance with the following:

(1) Written notice of such suspension shall be served upon the licensee by delivering the notice to the licensee or by depositing the notice in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the licensee at the address shown on the application. Such notice shall be deemed served upon the licensee upon deposit in the United States mail.

(2) The notice shall inform the licensee of the reason for such suspension, the duration of the suspension, the beginning date of such suspension, and the right to appeal under the provisions of this division.

(b) Suspension of a license shall be effective ten days after the written notice is served upon the licensee and may be appealed by the licensee to the City Council in accordance with the provisions of this division.

#### **Sec. 86-72. Revocation.**

(a) Any license issued under this division may be revoked by the Mayor upon any violation of a federal or state law, local ordinance or related rules and regulations in accordance with the following:

(1) Written notice of such revocation shall be served upon the licensee by delivery to the licensee or by depositing the notice in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the licensee at the address shown on the application. Such notice shall be deemed served upon the licensee upon deposit in the United States mail.

(2) The notice shall inform the licensee of the reasons for such revocation, the beginning date of the revocation, and the right to appeal under the provisions of this division.

(b) Such revocation shall be effective ten days after written notice is delivered to the licensee and may be appealed by the licensee to the City Council in accordance with the provisions of this division.

### **Sec. 86-73. Appeal to City Council.**

Within ten days of service of a written notice of denial, suspension or revocation of a license under this division, a licensee may appeal such action to the City Council in accordance with the following:

(1) The appeal shall be initiated by filing a written objection to the action denying, suspending or revoking a license with the City Clerk. The written objection shall state what action is being appealed and shall have attached a copy of the written notice of the action complained of and shall specifically state the reasons for believing the action was erroneous. An appeal of any suspension or revocation shall automatically stay such suspension or revocation pending the final decision of the City Council.

(2) Upon receipt of an appeal, the City Clerk shall schedule such appeal for a hearing before the City Council at its next regularly scheduled meeting and inform the person who initiated the appeal of the time and place of such meeting and of the opportunity to appear and be heard by the City Council at such meeting.

(3) The City Council may set aside the action appealed from and grant a license to an applicant, or reinstate a license which has been suspended or revoked, as the facts may warrant based upon the provisions of this division or other conditions as the City Council may deem advisable. The decision of the City Council shall be made within ten days of the date of the meeting, and the Clerk shall notify the person who initiated the appeal of such decision in writing at such person's last known address. A decision by the City Council shall be a final decision.

### **Sec. 86-74. Appeal from final decision of City Council.**

Any person aggrieved by the final decision of the City Council may pursue an appeal of such decision to the Oakland County Circuit Court. The time and procedure for filing such appeal shall be in accordance with the Administrative Procedures Act of 1969 (MCL 24.301 et seq.) and the Michigan Court Rules.

### **Sec. 86-75. Suspension and revocation by City Council.**

The City Council may, in its discretion, upon a hearing, suspend or revoke a license issued under this division if the City Council determines that the health, safety and welfare of the City would be best served by such suspension or revocation. Written notice of such proposed suspension or revocation and notice of the hearing shall be served upon the licensee in the manner provided in this division for a suspension or revocation of a license by the Mayor.

## **DIVISION 2. SINGLE HAULER WASTE COLLECTION AND DISPOSAL PROGRAM**

### **Sec. 86-101. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The terms, words and phrases as used in this division shall have the meanings ascribed to them in section 86-1.

*Designated waste hauler* means any person awarded a contract by the City to engage in the business of collecting solid waste, recyclable materials and yard clippings from single-family generation sites within the City and hauling, transporting or disposing of such materials.

*Single-family generation site* means a single-family dwelling unit that is not attached to any other dwelling unit by any means, excluding dwelling units in mobile home parks.

### **Sec. 86-102. Collection and disposal of solid waste and recyclable materials.**

Commencing on \_\_\_\_\_, 2009 collection and disposal of solid waste and recyclable materials from single-family generation sites shall be done in accordance with the following provisions:

- (1) No person shall dispose of any solid waste or recyclable materials (excluding yard clippings removed by landscapers in accordance with section 86-6(3)(b)) generated from single-family generation sites within the City other than by means of the designated waste hauler contracted by the City for such purpose.
- (2) The designated waste hauler shall deliver solid waste to a facility authorized under Act 451 to operate for disposal of such materials.
- (3) No person except the designated waste hauler shall engage in the business of collection, transporting, delivery or disposal of solid waste or recyclable materials generated by single-family generation sites within the City.
- (4) The designated waste hauler shall comply with Act 451 and all applicable federal, state and county laws, statutes, local ordinances, and rules and regulations in the collection, transportation and delivery of solid waste and recyclable materials.
- (5) No person shall knowingly place hazardous waste at curbside or other designated locations for collection, and the designated waste hauler shall not knowingly collect or deliver hazardous waste to a processing or disposal site.

### **Sec. 86-103. Rates, charges and payments for solid waste and recycling collection and disposal service.**

The designated waste hauler shall charge fees for collection and disposal of waste and shall bill for such services in accordance with the following:

- (1) The designated waste hauler shall charge fees for collection and disposal of waste placed for collection as set forth in the contract between the designated waste hauler and the City.

(2) The designated waste hauler shall send a quarterly invoice, in advance, to each single-family generation site for which services are provided in the City. Such invoice shall represent charges for services to be rendered in the following quarter.

(3) Unless otherwise specified by the City, the invoice shall be delivered by regular mail at least two weeks prior to the beginning of the quarter for which charges are imposed.

(4) If the invoice is not paid within 90 days after the due date, it shall be considered delinquent and a penalty set by the City Council shall be added to the amount due. The penalty assessed shall be retained by the City and not paid to the designated waste hauler.

(5) The charges for collection and disposal fees relating to services to single-family generation sites by the designated waste hauler shall constitute a lien on the single-family generation site for which the services have been provided. Any charges and penalties delinquent for three months or more shall be certified annually by the City official in charge of collection to the tax assessing officer of the City to be entered upon the next tax roll against the single-family generation site for which the services have been rendered, and the charges and penalties shall be collected as part of the general City taxes against such single-family generation site and shall accrue further interest and penalties and shall be collected in the same manner as provided for delinquent real property taxes in the City.

#### **Sec. 86-104. Violations.**

(a) *Enforcement.* Articles I and II shall be enforceable by the Oakland County Sheriff's Department, the City Building Department and enforcement officers designated by the Mayor.

(b) *Nuisance and abatement.* Any disposal or collection of solid waste, recyclable materials, or yard clippings from a single-family generation site in the City in violation of any section of Articles II or III is declared to be a nuisance per se, and the City Council may institute any appropriate action or proceedings in law or equity to prevent, restrain, correct, or abate any such nuisance by any court of competent jurisdiction.

(c) *Penalties.* Penalties for violations shall be as follows:

(1) *Single-family generation site.* All violations of this article by owners or occupants of single-family generation sites pertaining to solid waste and yard clippings collected or generated on the property of the single-family residence shall be municipal civil infractions and upon conviction thereof, shall be punishable by a fine of \$25.00.

(2) *Waste haulers.* Penalties for violations by waste haulers shall be municipal civil infractions as follows:

a. All violations of this article by waste haulers shall be subject to sanctions as provided in subsection 1-16(c).

b. Repeated violations of this article by a waste hauling unit shall be cause for suspension or revocation of a waste hauling unit license.

(3) *Each day separate offense.* Every day that a violation occurs or continues shall be deemed a separate offense.

Section 2. 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 3. 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 \_\_\_\_\_, 2008, following its publication in the *Rochester Eccentric* on \_\_\_\_\_, 2008.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on \_\_\_\_\_, 2008.

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Bryan K. Barnett, Mayor  
City of Rochester Hills

CERTIFICATE

I hereby certify the foregoing ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof on \_\_\_\_\_, 2008.

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Jane Leslie, Clerk  
City of Rochester Hills