

## **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.

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*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

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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

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.