

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF BLOOMFIELD HILLS
ORDINANCE NO. 417**

SOLID WASTE ORDINANCE AMENDMENT

An ordinance to repeal Chapter 17.3, Solid Waste Collection, Recycling and Disposal, of the Bloomfield Hills Code of Ordinances and adopt a new Solid Waste Ordinance which includes but not by way of limitation that the future collection of solid waste shall be handled through a contract awarded through public bidding with the private sector. Further to provide standards and specifications for services to be provided, provide for administration of the solid waste program and operational specifications and provide penalties for failure to comply with the provisions of this ordinance.

THE CITY OF BLOOMFIELD HILLS ORDAINS:

ARTICLE I. IN GENERAL

Secs. 17.3-1 – 17.3-15. Reserved.

ARTICLE II. COLLECTION, RECYCLING AND DISPOSAL

Sec. 17.3-16. Intent and purpose.

(a) Part 115 of Public Act No. 451 of 1994 (MCL 324.11501 et seq.) provides that a municipality shall assure that all solid waste is removed from sites of generation frequently enough to protect the public health, and delivered to solid waste disposal areas authorized to operate pursuant to such act. The city commission has determined that the collection of solid waste would most appropriately be undertaken at this time by the city, acting by and through contract with the private sector. Because solid waste collection directly affects the public health, safety and general welfare and due to the fact that multiple contractors result in excessive wear and tear on city roads, the city shall contract with a single contractor in order to facilitate city governance and control of the solid waste program. In addition, the city commission has determined that it would be in the public interest if the private contractor were selected on a bid basis, requiring demonstration of the contractor's capability and strength to provide a high level of service to sites of generation within the city, and to promote and protect the public health, safety and welfare.

(b) The city commission has further determined that its solid waste program should include recycling and composting, consistent with the county solid waste plan.

(c) For purposes of establishing and carrying out a program of solid waste collection, recycling and disposal, the city commission has adopted this article to provide standards and specifications for services to be provided, provide for administration of the program and operational specifications, and provide penalties for failure to comply with the provisions of this article.

Sec. 17.3-17. Definitions.

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

Construction and demolition debris mean nonhazardous wastes generated from construction and demolition activities, including but not limited to concrete, asphalt, wood, metal and plaster.

Hazardous waste means any material or substance which by reason of its composition or characteristics is:

- (1) Hazardous waste as defined in the Solid Waste Disposal Act, 42 USC 6907 et seq., as amended, replaced or superseded, and the regulations implementing the same;
- (2) Material the disposal of which is regulated by the Toxic Substance Control Act, 15 USC 2601 et seq., as amended, replaced or superseded, and the regulations implementing the same;
- (3) Special nuclear or byproduct materials within the meaning of the Atomic Energy Act of 1954, 42 USC 2011 et seq.; or,
- (4) Hazardous waste as defined in part III of Public Act No. 451 of 1994 (MCL 324.11101 et seq.), and as identified in administrative rules and regulations adopted by published resolution of the city commission from time to time and/or by regulations adopted by the state department of environmental quality.

Industrial special waste means nonhazardous wastes generated by industrial users, which due to their size or composition, require special handling and/or disposal procedures, including but not limited to foundry; sand, incinerator/boiler bottom ash, fly ash, sludges, scrap pallets and other wastes from manufacturing processes which require special handling and/or disposal procedures.

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

Recyclable materials means the following commingled and/or presorted materials that are separated from solid waste prior to the collection of solid waste from a site of generation: high grade paper, glass, metal, plastic, aluminum, newspaper, corrugated paper and yard clippings. Recyclable materials shall not include hazardous waste. More detailed specification of the items deemed to be recyclable materials shall be provided from time to time by duly published resolution.

Site of generation means any premises in the municipality in or on which solid waste or recyclable materials is generated by any person.

Solid waste means garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludges, solid commercial and solid industrial waste, and animal waste other than organic waste generated in the production of livestock and poultry. Solid waste does not include the following:

- (1) Human body waste.
- (2) Medical waste as it is defined in part 138 of the public health code, Public Act No. 368 of 1978 (MCL 333.13801 et seq.), and regulated under that part and part 55 (MCL 333.5501 et seq.).
- (3) Organic waste generated in the production of livestock and poultry
- (4) Liquid waste.
- (5) Ferrous or nonferrous scrap directed to a scrap metal processor or to a reuser of ferrous or nonferrous products.
- (6) Slag or slag products directed to a slag processor or to a reuser of slag or slag products.
- (7) Sludges and ashes managed as recycled or nondetrimental materials appropriate for agricultural or silvicultural use pursuant to a plan approved by the department. Food processing residuals; wood ashes resulting solely from a source that burns only wood that is untreated and inert; lime from Kraft pulping processes generated prior to bleaching; or aquatic plants may be applied on, or composted and applied on, farmland or forest- land for an agricultural or silvicultural purpose, or used as animal feed, as appropriate, and such an application or use does not require a plan described in this subsection or a permit or license under this part. In addition, source separated materials approved by the department for land application for agricultural and silvicultural purposes and compost produced from those materials may be applied to the land for agricultural and silvicultural purposes and such an application does not require a plan described in this subsection or permit or license under this part. Land application authorized under this subsection for an agricultural or silvicultural purpose, or use as animal feed, as provided for in this subsection shall occur in a manner that prevents losses

from runoff and leaching, and if applied to land, the land application shall be at an agronomic rate consistent with generally accepted agricultural and management practices under the Michigan Right to Farm Act, Public Act No. 93 of 1981 (MCL 286.471 et seq.).

- (8) Materials approved for emergency disposal by the state department of environmental quality.
- (9) Source separated materials.
- (10) Site separated material.
- (11) Fly ash or any other ash produced from the combustion of coal, when used in the following instances:
 - a. With a maximum of six percent of unburned carbon as a component of concrete, grout, mortar, or casting molds.
 - b. With a maximum of 12 percent unburned carbon passing MDOT test method MTM 101 when used as a raw material in asphalt for road construction.
 - c. As aggregate, road, or building material which in ultimate use will be stabilized or bonded by cement, limes, or asphalt.
 - d. As a road base or construction fill that is covered with asphalt, concrete, or other material approved by the state department of environmental quality and which is placed at least four feet above the seasonal groundwater table.
 - e. As the sole material in a depository designed to reclaim, develop, or otherwise enhance land, subject to the approval of the state department of environmental quality; In evaluating the site the department shall consider the physical and chemical properties of the ash including leachability, and the engineering of the depository, including, but not limited to, the compaction, control of surface water and groundwater that may threaten to infiltrate the site, and evidence that the depository is designed to prevent water percolation through the material.
- (12) Other wastes regulated by statute.

Solid waste management plan means the Oakland County Solid Waste Management Plan approved by the county board of commissioners, by two-thirds of the cities, villages and townships in the county and by the director of the state department of environmental quality; pursuant to the requirements and provisions of state law, and any updates thereof and any amendments thereto.

Waste hauler means any person other than the city, awarded a contract by the city for, and engaged in the business of, collecting and transporting, delivering and disposing of solid waste and recyclable materials generated within the city.

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

Sec.17.3-18. Generators of solid waste and recyclable materials.

All solid waste and recyclable materials from any site of generation intended for collection and/or disposal shall be stored and placed for pick-up and collection at the times and in the manner provided in rules and regulations adopted by duly published resolution.

Sec. 17.3-19. Recyclables.

(a) Commencing on April 1, 2015, all persons who are owners, lessees or occupants of any site of generation shall separate recyclable materials from solid waste and prepare the recyclable materials for pick-up, collection and delivery in the manner provided by the rules and regulations adopted by the city by duly published resolution.

(b) Yard wastes shall either be disposed of at the site of generation in a manner which will not create a nuisance and/or be injurious to the public health, or yard wastes shall be placed at the curb side or other designated location for pick-up, collection and delivery by the waste hauler in the manner provided by rules and regulations adopted by duly published resolution. This provision shall not prohibit a person engaged in the business of providing landscaping services from removing yard wastes from a site of generation, provided, however, such a person shall be obligated to dispose of such yard wastes by composting, direct delivery to the waste hauler and/or delivery to a premises outside of the city in a lawful manner.

(c) Any recyclable materials authorized for collection by or at the direction of the city in accordance with the terms of this article shall become the property of the waste hauler at the time the material is placed at the curb side or other designated location. It shall be a violation of this article for any person not authorized by the city to collect or pick-up or cause to be collected or picked up any such recyclable materials.

Sec. 17.3-20. Exemption from mandatory separation of recyclable materials.

Individuals living alone who have been declared legally blind or who have a permanent physical disability as determined by a licensed physician in the state, to the extent which would prevent the individual from complying with the mandatory recycling requirements of this article, shall be exempt from the mandatory recycling provisions of this article.

Sec. 17.3-21. Collection and disposal of solid waste and recyclable materials.

No person shall dispose of any solid waste or recyclable materials generated within the city other than by means of the designated waste hauler awarded a contract by the city for such purpose.

Sec. 17.3-22. Solid waste and recyclable materials to be delivered to waste hauler.

Commencing on April 1, 2015, all solid waste and recyclable materials, including yard wastes (subject to the exclusions noted above), generated within the city shall be collected and delivered to the designated waste hauler. If a contract with a company other than the designated waste hauler was in existence on or before October 1, 2014, for the collection and disposal of solid waste from a site of generation, delivery of solid waste from such site of generation to the company specified in such contract may be continued for the duration of the contract, provided, however, such contract shall be subject to verification by the city and its designee. In addition, solid waste shall in all events be delivered to the designated waste hauler on and after April 1, 2015 unless a copy of a written contract providing for services subsequent to April 1, 2015 is provided to the city together with a demonstration that such contract was in existence on or before November 5, 2014

Sec. 17.3-23. City shall publish established rules and regulations.

The city shall, by resolution duly published, establish rules and regulations governing procedures for collection. Such procedures shall include the pick-up schedule, items which are deemed to be recyclable materials, and the manner, location and containers for storage and collection. Such rules and regulations shall be consistent with this article and consistent with the contract entered into between the city and the waste hauler. A failure to comply with such rules and regulations shall be a violation of this article.

Sec. 17.3-24. Waste hauler to pay all disposal fees.

The waste hauler shall deliver solid waste to a facility authorized to operate pursuant to state law for disposal, and the waste hauler shall pay all disposal fees established for the particular licensed facility for any delivery of solid waste or recyclable materials to such facility. The obligation to pay the disposal fee pursuant to this article shall be absolute and unconditional.

Sec. 17.3-25. No individual shall engage in the business of waste hauling without a contract with the city.

No person shall engage in the business of collecting, transporting, delivering, or disposing of solid waste or recyclable materials generated within the city without first being authorized to do so by contract with the city as provided in this article.

Sec. 17.3-26. Waste hauler to comply with solid waste management plan.

The waste hauler shall comply with the solid waste management plan and all applicable federal, state and county laws, statutes, rules and regulations in the collection, transportation and delivery of solid waste and recyclable materials.

Sec. 17.3-27. Hazardous waste not to be placed at curbside.

A person shall not knowingly place hazardous waste at curb side or other designated location for collection, and a waste hauler shall not knowingly collect or deliver hazardous waste to a processing or disposal site.

Sec. 17.3-28. Rates and payment to contractor for solid waste collection, recycling and disposal services.

Rates for solid waste collection, recycling and disposal services shall be determined and established by the city based upon competitive bids in accordance with this article.

Sec. 17.3-29. Rate to be adopted by resolution.

Following such bidding, the city shall adopt resolutions from time to time specifying the rates. Such resolution shall be published in order to provide notice to the public.

Sec. 17.3-30. Quarterly billing.

(a) The contractor shall send a quarterly billing, in advance, to each site of generation for which services are provided in the city. Such billing shall represent charges for services to be rendered in the following quarter.

(b) The billing shall be transmitted by regular mail at least two weeks prior to the beginning of the quarter for which charges are imposed

(c) The due date for payment shall be the last business day prior to the beginning of the quarter for which the charges are imposed.

Sec. 17.3-31. Nonpayment or late payments.

Such charges shall constitute a lien upon the property which is the site of generation. If a payment is not made on or before the due date a penalty in the amount of one percent per month shall be added for each month or portion of a month payment has not been made in full. Moreover, if there is an outstanding balance owing to the contractor with respect to any property as of October 1 in any year, such outstanding balance, together with all accrued penalties, shall be placed upon the delinquent tax roll of the city, and shall accrue further interest and penalties, and shall be collected, in the manner made and provided for delinquent real property taxes in the city.

Sec. 17.3-32. Waiver of collection fees.

Property owners meeting the following criteria shall be eligible to receive a full or partial waiver of collection fees:

- (1) An individual that has an annual gross household income of less than or equal to \$10,000.00 and who timely files with the city assessor's office an application for waiver of solid waste collection fees along with proof of annual gross household income from the previous year shall receive a waiver of all of the solid waste collection fees required by this article for the year for which the application for waiver of solid waste collection fees was filed.
- (2) An individual that has an annual gross household income of more than \$10,000.00 but less than or equal to \$16,875.00 and who timely files with the city assessor's office an application for waiver of solid waste collection fees along with proof of annual gross household income from the previous year shall receive a waiver of one-half of all of the solid waste collection fees required by the article for the year for which the application for waiver of solid waste collection was filed.
- (3) An individual filing an application for waiver of solid waste collection fees pursuant to subsections (1) and (2) of this section shall file said application for waiver of solid waste collection fees each year on or before July 1 to be eligible for the waiver of solid waste collection fees for the following 12 month period.
- (4) All applications for waiver of solid waste collection fees will be considered by the solid waste review commission. The solid waste review commission shall be comprised of three members who shall be the city assessor city treasurer and an individual designated by the city manager. The solid waste review commission shall have the authority to waive the solid waste collection fees or any part thereof for a period of up to 12 months if it finds that a hardship as defined in subsections (1) and (2) of this section exists.
- (5) Those persons who pursuant to section 17.3-20 qualify for exemptions from the mandatory recycling provisions and requirements of this article shall be exempt from all recycling fees required by this article.
- (6) The rates established by this amendatory article shall remain in effect for a period of two years from the effective date of this article and thereafter the rates may be modified from time to time by a resolution of the city commission without the further necessity of amending this article.

Sec. 17.3-33. Contract for solid waste collection, recycling and disposal.

The city manager shall develop contract specifications and a public bid procedure for the award of a contract for solid waste collection, recycling and disposal in the city. A waste hauler shall be selected by the city commission to provide for the collection, disposal, resource

recovery; recycling and composting of solid waste in the city with respect to all existing and future residences, multiple dwellings and commercial sites in the city in accordance with this article, in accordance with the contract to be awarded, and in accordance with all applicable laws, ordinances, codes and regulations.

Sec. 17.3-34. Bid specifications.

The city manager is authorized to include in bid specifications for the contract to be awarded those requirements and specifications determined by the manager to be reasonably related to:

- (1) Promoting and protecting the public health, safety and welfare.
- (2) Providing appropriate services to properties within the city.
- (3) Promoting the general understanding of and need for resource recovery; recycling and composting.

Sec. 17.3-35. Contract; minimum provisions.

The contract to be awarded by the city commission to the waste hauler shall, as a minimum, provide for:

- (1) The collection of mixed wastes and recyclables from single-family dwellings, multiple dwellings and commercial sites of generation.
- (2) A household hazardous waste program.
- (3) The requirement of a program for recycling and composting.
- (4) Other miscellaneous services to be specified by the manager as part of the bid process, including, without limitations, dumpster service at municipal buildings and facilities, a drop- off center, and spring clean up assistance.
- (5) Insurance and bonding requirements, including liability; workers' compensation and a performance bond.
- (6) The preparation and submission of reports by the waste hauler describing the volume and location of solid waste generated in the city, as well as other reports required by the city to determine the efficiency and effectiveness of the solid waste program, including the effectiveness and efficiency of recycling and composting in the city.
- (7) A provision for the rights of the city in the event of a failure to perform on the part of the waste hauler.

- (8) The rights and obligations of the city for termination of the contract.
- (9) Operational specifications, including specifications for collection trucks and equipment, employees, contractor maintenance facility; waste container handling and condition, schedules and routes, addressing citizen complaints, and other matters deemed necessary or appropriate by the city manager.
- (10) Right and authorization of the city to inspect records and operations of the waste hauler
- (11) Provision for a multi-media informational program with respect to resource recovery; recycling and composting.

Sec. 17.3-36. Waste hauler—Compliance.

The contract shall require the waste hauler to comply with applicable laws, codes, ordinances, rules and regulations.

Sec. 17.3-37. Same—Permits and licenses.

The contract shall require the waste hauler to secure and maintain in good standing all permits and licenses required by law, ordinance, code, rule or regulation.

Sec. 17.3-38. Penalties.

(a) Any person who shall violate the provisions of this article shall be responsible for a municipal civil infraction, subject to the following penalties:

- (1) Fines. The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a particular ordinance:
 - a. First offense. The civil fine for a first offense violation shall be in an amount of \$75.00, plus costs and other sanctions, for each offense.
 - b. Repeat offense. The civil fine for any offense which is a repeat offense shall be in an amount of \$150.00, plus costs and other sanctions for each offense.
- (2) Enforcement. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation, of this article.

- (3) Continuing offense. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
- (4) Remedies not exclusive. In addition to any remedies provided for by this article, any equitable or other remedies available may be sought.

(b) The judge or magistrate shall be authorized to impose costs, damages and expenses as provided by law.

(c) A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.

ARTICLE III

Ordinance No. 252 being Chapter 17.3 of the City Code adopted on October 15, 1991 is hereby repealed.

ARTICLE IV. Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

ARTICLE V. Repealer.

All Ordinances or part of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

ARTICLE VI. 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 when they were commenced.

ARTICLE VII. Effective Date.

This Ordinance shall take effect immediately upon publication in the manner prescribed by law.

AYES:5 (Dul, Hardy, Sherr, Coakley, McClure)

NAYES:0

ABSTENTIONS:0

CERTIFICATION

The foregoing ordinance was duly adopted by the City Commission of the City of Bloomfield Hills at a meeting duly called and held on _____.

CITY OF BLOOMFIELD HILLS

Date: November 13, 2014

BY: _____
Amy L. Burton, City Clerk

ADOPTED: 11/12/14
EFFECTIVE: 11/23/14
PUBLISHED: 11/23/14

Article I. In General

Sec. 17.3-1 – 17.3-15 Reserved.

Article II. Collection, Recycling and Disposal

- Sec. 17.3-16. Intent and purpose
- Sec. 17.3-17. Definitions
- Sec. 17.3-18. Generators of solid waste and recyclable materials.
- Sec. 17.3-19. Recyclables.
- Sec. 17.3-20. Exemption from mandatory separation of recyclable materials
- Sec. 17.3-21. Collection and disposal of solid waste and recyclable materials.
- Sec. 17.3-22. Solid waste and recyclable materials to be delivered to waste hauler.
- Sec. 17.3-23. City shall publish established rules and regulations.
- Sec. 17.3-24. Waste hauler to pay all disposal fees
- Sec. 17.3-25. No individual shall engage in the business of waste hauling without a contract with the city.
- Sec. 17.3-26. Waste hauler to comply with solid waste management plan
- Sec. 17.3-27. Hazardous waste not to be placed at curb side.
- Sec. 17.3-28. Rates and payment to city for solid waste collection, recycling and disposal services
- Sec. 17.3-29. Rate to be adopted by resolution.
- Sec. 17.3-30. Quarterly billing.
- Sec. 17.3-31. Nonpayment or late payments.
- Sec. 17.3-32. Waiver of collection fees.
- Sec. 17.3-33. Contract for solid waste collection, recycling and disposal.
- Sec. 17.3-34. Bid specifications.
- Sec. 17.3-35. Contract; minimum provisions.
- Sec. 17.3-36. Waste hauler—Compliance.
- Sec. 17.3-37. Same—Permits and licenses.
- Sec. 17.3-38. Penalties

***State law references**—Garbage disposal act, MCL 123.361 et seq.; solid waste facilities, MCL 324.4301 et seq.; hazardous waste management act, MCL 324.11101 et seq.; hazardous materials transportation act, MCL 29.417 et seq.; solid waste management act, MCL 324.11501 et seq.; waste reduction assistance act, MCL 324.14501 et seq.; clean Michigan fund act, MCL 324.19101 et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq