CHARTER TOWNSHIP OF WATERFORD

ORDINANCE NO. 2019-006

WASTE MATERIALS AND RESIDENTIAL SINGLE HAULER ORDINANCE AMENDMENT

An Ordinance to amend Article III in Chapter 9 of the Waterford Charter Township Code to amend and add definitions and sections in Division 1, add a new Division 1A, and amend the title of and amend and add sections to Division 2, to amend and add waste material handling, storage, and disposal regulations, require the licensing of waste haulers, vehicles, and equipment, and to provide for all solid waste, recyclable materials, and yard waste from residential properties with curbside collection to be collected by a single waste hauler designated by the Township, and to provide penalties for violations of the added Division.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 9-053 in Division 1, Generally, of Article III, Waste Materials Control, in Chapter 9, Health and Sanitation, of the Waterford Charter Township Code is amended by changing the following existing definitions to read as follows:

Sec. 9-053. Definitions.

Recyclable Materials. Materials that are separated from solid waste prior to the collection from the site of generation, including high grade paper, glass, all metals, plastic, newspaper, corrugated paper, and other materials that may be recycled or composted. Recyclable materials shall not include hazardous waste.

Waste Hauler. Any person that collects or removes and transports solid waste, recyclable materials, or yard waste from a site of generation for transportation to and disposal at a different location.

Yard Waste. Leaves, grass clippings, lake weeds, vegetable or other garden debris, shrubbery, or brush, tree, plant and/or vegetation trimmings, not more than four (4) feet in length and three (3) inches in diameter, that can be converted to compost humus, also commonly referred to as compostable(s) and yard waste. Yard waste shall not include stumps, agricultural wastes, animal waste, roots, sewage sludge or garbage.

Section 2 of Ordinance

Section 9-053 in Division 1, Generally, of Article III, Waste Materials Control, in Chapter 9, Health and Sanitation, of the Waterford Charter Township Code is amended by adding the following definitions to read as follows:

Sec. 9-053. Definitions.

Act. Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994, MCL 324.11501 et seq., as amended.

Bulk item. Large pieces of furniture, bed springs, mattresses, bed frames, large appliances, washers, dryers, air conditioners, microwave ovens, humidifiers, de-humidifiers, furnaces, stoves, refrigerators, freezers, water heaters and softeners, water closets, toilets, bathtubs, sinks, carpet and pad, doors, windows, shelving, siding, lawn and yard furniture and equipment, exercise and playground equipment, grills, bicycles, tool and file cabinets, small quantities of building debris resulting from repair or remodeling personally done by the occupant of the residential premises and tied or bundled in lengths of not more than five (5) feet, fence parts or sections no larger than three (3) feet by four (4) feet, railroad ties and fence posts no larger than four (4) inches in diameter and eight (8) feet long, and other similar large household items.

County waste management plan. The Oakland County Solid Waste Management Plan and any amendments thereto.

Curbside. A location as near as possible to and within six (6') feet of the main-traveled portion of the roadway for the placement of residential solid waste, recyclable materials, or yard waste for collection.

Designated waste hauler. A licensed waste hauler awarded a contract by the township to collect, transport, and dispose of the residential solid waste, recyclable materials, and yard waste generated from residential premises in the township as provided in Division 1A.

Hazardous waste. As defined by the Natural Resources and Environmental Protection Act, Part 111 of Public Act No. 451 of 1994, MCL 324.11103(3) et seq., as amended.

Licensed waste hauler. A waste hauler that has applied for and been issued a waste hauler license as provided in Division 11 of Article III in Chapter 10 of this Code.

Residential premises. A parcel or lot that contains a single-family residential dwelling or multiple-family residential dwelling unit.

Site of generation. Any property in or on which solid waste, recyclable material, or yard waste is generated.

Solid waste. All categories of waste materials as defined in this Section but excluding liquid waste, medical waste, wastewater, hazardous waste, and other materials excluded from the definition of solid waste in the Act.

Section 3 of Ordinance

The Waterford Charter Township Code is amended by adding new Sections 9-055, 9-056, 9-057, and 9-058 in Division 1, Generally, of Article III, Waste Materials Control, in Chapter 9, Health and Sanitation, to read as follows:

Sec. 9-055. Prohibited storage, collection, transportation, and disposal.

It shall be unlawful for any person to store, collect, transport, or dispose of waste or recyclable materials except in the manner required and authorized in this Article.

Sec. 9-056. Waste hauler licensing.

No person shall act or be engaged in business as a waste hauler without first obtaining all licenses required by the State of Michigan and other governmental entities, and a business license from the Township under Division 11 of Article III in Chapter 10 of this Code.

Sec. 9-057. Waste collection vehicles and equipment.

Solid waste, yard waste, and recyclable materials shall only be collected and transported in and with vehicles and equipment that have been licensed or registered with the Township as provided in Division 11 of Article III in Chapter 10 of this Code.

Sec. 9-058. Rules and Regulations.

By resolution, the township board may adopt rules and regulations for the implementation of the regulations in this Article, which may include collection schedules, approved recyclable materials and container lists, and any other matter related to the storage, collection, transportation, and disposal of solid waste, yard waste, and recyclable materials that are consistent with this Article, any Township contract with a designated residential waste hauler, and in compliance with applicable provisions of the Act.

Secs. 9-059 -- 9-060. Reserved.

Section 4 of Ordinance

The Waterford Charter Township Code is amended by adding Sections 9-061 through 9-070 in a new Division 1A, Designated Residential Waste Hauler, of Article III Waste Materials Control, in Chapter 9, Health and Sanitation, to read as follows:

Division 1A. Designated Residential Waste Hauler

Sec. 9-061 - Authority and purpose.

(a) The Act provides that a municipality shall ensure that all solid waste is removed from sites of generation frequently enough to protect the public health, and that it shall be disposed of at a licensed solid waste disposal area.

(b) Because the current process of solid waste, recyclable material, and yard waste collection, transportation and disposal in the township directly and negatively affects public health, safety and welfare by the operation of multiple heavy trucks by multiple waste haulers on residential streets on different days of the week resulting in unnecessary traffic and public safety risks, wear and tear, and unsightly conditions on those streets, the township has determined that the curbside collection of those materials from residential properties shall be undertaken by the township through a contract with a single designated waste hauler.

Sec. 9-062. - Designated waste hauler use, prohibitions, and exclusions.

(a) Commencing on March 30, 2020, all solid waste, recyclable materials, and yard waste from every residential premises site of generation in the township shall be collected, transported, and disposed of by a waste hauler designated by the Township Board as provided

in this Division and no person shall dispose of any such materials through any means or waste hauler other than a township designated residential waste hauler.

(b) As of the effective date in subsection (a) no person except a township designated waste hauler shall engage in the business of collection, transporting, delivery, or disposal of solid waste, recyclable materials, or yard waste for a residential premises site of generation.

(c) The following are excluded from the application of this Division:

(1) A person in the business of providing landscaping services may remove the yard waste from its residential customers' premises for disposal by the landscaper in accordance with all regulations of the Act.

(2) Multiple-family residential units that have dumpster or other type of non-curbside solid waste collection.

(3) Multiple-family commercial uses such as apartments and hotels.

(4) Residential property that is undeveloped.

(5) Services by a timely licensed waste hauler under Division 11 of Article III in Chapter 10 of this Code that were paid for prior to June 10, 2019, through the documented date the services were paid for or June 10, 2020, whichever is earlier.

(6) Residential premises sites of generation that are excluded by law or its contract with the Township from being serviced by a township designated waste hauler.

Sec. 9-063. - Selection of designated waste hauler.

The award of a contract to a designated waste hauler shall be in the sole discretion of the township board and be made at a regular or special meeting of the township board.

Sec. 9-064. - Designated waste hauler services and requirements.

The contract awarded by the township to a designated waste hauler shall provide for the following:

(a) Compliance with the regulations in Division 2.

(b) Compliance with all requirements, terms, and conditions of the waste hauler's license, including the licensing or registration and proper maintenance of vehicles and equipment used.

(c) For collected materials to be transported and delivered to licensed disposal facilities under the Act and for the payment of all disposal fees charged by the facilities.

(d) Compliance with all applicable federal, state and county laws, statutes, ordinances, rules and regulations and the County waste management plan in the collection, transportation, and delivery of solid waste, recyclable materials and yard waste.

(e) Weekly curbside collection on designated days of solid waste, recyclable materials, and yard waste from residential premises for transport and disposal at a licensed disposal site.

(f) Separate collection, transportation, and disposal of recyclable materials that have been separated at the site of generation prior to placement for collection.

(g) Collection of some or all types of bulk items as defined in Section 9-053 on terms and conditions to be established.

(h) For the designated waste hauler to be responsible for billing for services, and for the payment, collection, and enforcement of billings.

(i) For a condominium or subdivision association to assume the responsibility to pay for the services to be provided by the designated waste hauler to the residential premises in the condominium or subdivision.

Sec. 9-065. - Rates to be established by township.

After awarding a contract to a designated waste hauler, the township board shall adopt a resolution that specifies the rates that shall be charged by the designated waste hauler for the services to be provided. The rates to be charged shall be based upon the awarded contract and upon adoption, the approved rate resolution shall be published in order to provide notice to the public of the rates approved. The designated solid waste hauler shall not charge a rate in excess of the rates approved by resolution of the township board.

Sec. 9-066. - Responsibility and invoices for services and delinquencies.

(a) The designated solid waste hauler shall bill for services in advance by sending an invoice directly to each residential premises for which services are to be provided. The invoices shall be in accordance with the rates established by the township board under Section 9-065.

(b) Invoices shall be in writing and transmitted to customers prior to the beginning of the billing period for which the charges are imposed and shall conspicuously note the due date for payment and any late penalty that will apply and be payable after that date.

(c) The due date for payment shall be the last business day prior to the beginning of the billing period for which the charges are imposed. If the last business day falls on a Saturday, Sunday, or holiday, the due date shall be the next business day.

(d) If an invoice is not paid within ten (10) days after the due date, a late payment penalty in an amount approved by the township board under Section 9-065 shall accrue on the unpaid invoice amount and be payable, collectable, and enforceable as provided in this Section.

(e) If an invoice is not paid within ten (10) days after the due date, it shall be considered delinquent and the designated waste hauler shall send a written notice of delinquency and the late payment penalty to the customer. The notice of delinquency shall include written notice that if the delinquent charges and late payment penalty are not paid, they will be added to the

township tax bill for the property as provided in Section 9-067, and how the notice of delinquency may be disputed with the designated waste hauler.

(f) The payment of all invoices and late payment penalties shall be a personal obligation of the owner of the residential premises for which the services are provided and shall be secured by a lien on that residential premises until paid in full.

Sec. 9-067. - Delinquent charges inclusion on tax bills and tax roll.

(a) The designated waste hauler shall maintain a list and written records by address and customer name of delinquent invoices, late payment penalties, and notice of delinquencies for possible placement on the township tax roll and December tax bill as provided in Section 1-014 of this Code.

(b) Prior to September 1 of each year, the designated waste hauler may submit a written request to the Township Treasurer that the township place the amount of any delinquent invoices and late payment penalties for each residential premises that have not been paid, on the tax roll and December tax bill as provided in Section 1-014 of this Code. The written request shall include an affidavit, signed by the designated waste hauler's authorized representative, that the charges on the delinquent list are accurate, shall include the due date for payment of the delinquent invoice, shall state the amount that is delinquent and any late payment penalties that have accrued, and the date notice of the delinquency was given as required under Section 9-066. The designated waste hauler shall also provide a text file in a format prescribed by the township assessor that includes the parcel identification number and address of the premises serviced, and the amounts of delinquent invoices and late payment penalties to be placed on the tax roll and December tax bill.

(c) Upon the timely submission of the designated waste hauler's request under subsection (b), at a meeting in September, the township board will review the request and by adoption of a resolution, approve the residential premises and amounts of delinquent invoice and late payment penalties to be placed on the tax roll and December tax bill for collection.

(d) The designated waste hauler's invoices and late payment penalties approved by the Township Board under subsection (c) shall be entered on the tax roll by the township assessor for the December tax bill with a six (6%) percent penalty on those amounts, for collection as any other real property tax.

(e) If a residential condominium or subdivision association has assumed responsibility to pay for the designated waste hauler's services, the provisions for collection of delinquent invoices as set forth herein shall not apply to the residential premises within that condominium or subdivision.

Sec. 9-068. - Violations and sanctions.

(a) Violation of this Division is a municipal civil infraction punishable as provided in Section 1-010(b).

(b) *Nuisance and abatement.* Any disposal or collection of solid waste, recyclable materials, or yard waste from a residential premises site of generation in violation of this Division is declared to be a nuisance per se, and the township board 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.

Secs. 9-069 -- 9-070. Reserved.

Section 5 of Ordinance

The title of Division 2, in Article III, Waste Materials Control, of Chapter 9, Health and Sanitation, of the Waterford Charter Township Code is amended from "Solid Waste" to "Waste Materials Regulations".

Section 6 of Ordinance

In Division 2, now Waste Materials Regulations, of Article III, Waste Materials Control, in Chapter 9, Health and Sanitation, of the Waterford Charter Township Code, Sections 9-078, 9-079, 9-080, and 9-081 are amended, and Sections 9-082, 9-083, 9-084, 9-085, 9-086, 9-087, and 9-088 are added to read as follows, with the new Section 9-088 being the old Section 9-081:

Division 2. Waste Materials Regulations.

Sec. 9-078. Storing of waste materials on private properties prior to waste hauler removal.

(a) On residential premises, all waste material except yard waste shall be stored in rodent-proof metal or hardened plastic waste material containers. Yard waste shall not be commingled with other waste materials. Waste material containers containing waste materials other than yard waste shall be covered tightly at all times to prevent the harboring of rodents and the scattering of debris. Except as provided in the following sentence, stored waste materials shall be shielded from public view. Placement of waste material containers, yard waste, and recycling bins beyond the front building line of any principal residential building shall be restricted to the time period beginning at 6:00 p.m. the day before a scheduled collection day through 8:00 p.m. of the scheduled collection day.

(b) On non-residential premises, all waste material stored outside of the building must be stored in waste material containers that are emptied by a licensed waste hauler at intervals frequent enough to prevent development of a food source for animals as well as prevent an overflow of items that will cause litter. The waste material containers shall be kept in rear or side yards at all times, unless another location has been approved in accordance with the Waterford Township Zoning Ordinance. Waste material containers containing waste materials shall be covered tightly at all times to prevent the harboring of rodents and the scattering of debris.

(c) The separation of recyclable materials from solid waste at the site of generation is encouraged but not required. Recyclable materials that are separated from solid waste for collection shall be stored in the following manner:

(1) Metal, glass or plastic materials shall be rinsed and cleaned before storage.

(2) Recyclables shall be site-separated from other waste and stored in a recycling collection container.

(3) Newspapers or other recyclable paper products shall be stored and placed in recycling collection containers, paper bags, or tied into bundles weighing not more than fifty (50) pounds.

Sec. 9-079. Responsibility for timely waste materials and recyclable materials removal.

Every person who owns, possesses, controls, supervises or occupies private property in the Township shall be responsible for ensuring that all solid waste, yard waste, and recyclable materials from such private property, including from within buildings and structures, are stored in accordance with Section 9-078 and placed for collection and disposal as provided in this Article.

Sec. 9-080. Removal by the Township.

At any private property where the failure to comply with the requirements of Section 9-079 results in the outdoor storage of solid waste or recyclable materials for more than one (1) week, after seven (7) days written notice by the Township to the owner and any known occupant or lessee of the property, to place the materials at curbside or other designated location for collection, upon a failure to do so the Zoning Official is hereby authorized and empowered to engage the services of a waste hauler to remove and dispose of the solid waste and recyclable materials from the exterior of the premises in order to eliminate the hazard to public health, safety, and welfare. The Zoning Official is further authorized to add to the Township's removal and disposal costs, a ten percent administrative charge to cover the expense of administering the removal and disposal. Such notification to the owner, occupant, or lessee shall further inform the owner that any such removal, disposal, and administrative costs shall be the responsibility of the owner and the Township shall place a lien against the land for such expense to be enforced in the manner provided for enforcement of tax liens under the general property tax law.

Sec. 9-081. - Burning of waste materials prohibited.

Unless allowed and permitted under the Fire Prevention Code Ordinance in Chapter 7 of this Code for wood yard waste, the outdoor and indoor burning of any kind of waste or recyclable materials is prohibited.

Sec. 9-082. - Hazardous waste.

No person shall knowingly place hazardous waste at the curbside or other designated location for collection and a waste hauler shall not knowingly collect or deliver hazardous waste to a processing or disposal site. In view of this prohibition, the township shall provide a program for legal household hazardous waste recycling, recovery, and disposal for residents.

Sec. 9-083. - Yard waste.

(a) Yard waste in the form of twigs, brush and branches shall not exceed three (3) inches in diameter and when placed at curbside for collection shall be placed in paper yard waste bags, containers clearly identifiable as containing yard waste, or tied in bundles not more than four (4) feet in length and eighteen (18) inches in diameter. All other yard waste shall be placed in containers clearly identifiable as containing yard waste or paper yard waste bags.

(b) Yard waste may only be placed or left at curbside for collection from April 1 through December 1 of each calendar year, or such later date in December as provided in a Township contract with a designated residential waste hauler or as allowed by the Act or county waste management plan and approved by Township Board resolution and the Township's designated residential waste hauler. Any yard waste at a site of generation after the December cutoff date shall be stored in an area shielded from public view as required in Section 9-078(a) and placed at curbside for collection by April 10 of the following year.

(c) Except during the period from the December cutoff date in subsection (b) through April 10 of the following year, yard waste shall not be stored on the site of generation for more than 30 days.

(d) The storage of yard waste shall only be on the site of generation and be in compliance with the Act, MCL 324.11521(2), as amended.

Sec. 9-084. Curbside placement and presumption.

Solid waste, yard waste, and recyclable materials shall be placed at curbside on the scheduled collection day by 7:00 a.m., and it shall be presumed that the owner, lessee, or occupant in physical possession of a site of generation abutting a curbside where waste or recyclable materials are placed is the person who placed such materials curbside for collection

Sec. 9-085. Prohibited placement of waste and recyclable materials.

Waste materials from a site of generation shall not be placed on another premises for disposal.

Sec. 9-086. - Prohibited collection of solid waste, yard waste, and recyclable materials.

Solid waste, yard waste, and recyclable materials placed at curbside or other designated location for collection shall become the property of the licensed and authorized waste hauler at the time the material is collected.

Sec. 9-087. Waste materials disposal.

Solid waste, yard waste, and recyclable materials shall only be disposed of at a location licensed by the State of Michigan to accept the type of materials being disposed of.

Sec. 9-088. - Violations and sanctions.

(a) Violation of this Division is a municipal civil infraction punishable as provided in Section 1-010(b).

(b) *Nuisance and abatement.* Any disposal or collection of solid waste, recyclable materials, or yard waste from a residential premises site of generation in violation of this Division is declared to be a nuisance per se, and the township board 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.

Secs. 9-089 -- 9-100. Reserved.

Section 7 of Ordinance

Should any Section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 8 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on August 26, 2019.

CHARTER TOWNSHIP OF WATERFORD

9-18-19
Date

By: Kimberly F. Markee
Kimberly F. Markee, Township Clerk

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