

09/13/2019

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

AN ORDINANCE TO ADD NEW ARTICLE IV, GREEN SPACE, TO CHAPTER 74, PARKS AND RECREATION, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO DEFINE TERMS AND ESTABLISH DESIGNATED PROPERTIES AS GREEN SPACES, PRESCRIBE RULES AND REGULATIONS FOR THE USE OF GREEN SPACES, PROHIBIT OR RESTRICT SPECIFIED ACTIVITIES, REPEAL CONFLICTING OR INCONSISTENT ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Article IV shall be added to Chapter 74 of the Code of Ordinances of the City of Rochester Hills, as follows:

#### **ARTICLE IV. GREEN SPACE**

##### **DIVISION 1. - GENERALLY**

##### **Sec. 74-251. - 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:

*Green Space* means an area of undeveloped land retaining or being returned to its natural character and influence, without permanent improvements or human habitation, which is managed so as to protect its natural conditions and which:

- (a) Generally appears to have been affected primarily by the forces of nature, with the imprint of human's work substantially unnoticeable; or
- (b) Contains ecological, geological, or other features of scientific, educational, scenic, or historical value; and
- (c) Is owned or leased by the City and has been designated by resolution of the City Council as Green Space.

*Camping* means the overnight lodging or sleeping of a person in open air or in a tent, trailer tent, trailer coach, vehicle camper, motor vehicle, or any other conveyance.

*Motor vehicle* means any power-driven vehicle, sports equipment, or motorized device, whether operated by means of wheels, tracks, runners, skis, or other means, whether or not eligible for licensing and registration under the Michigan Motor Vehicle Code, MCL 257.1 et

seq., as amended. Motorized wheelchairs, carts or similar devices or equipment used for transporting persons unable to walk shall not be considered to be motor vehicles.

*Smoking* means the burning, inhaling, exhaling, or carrying of any lighted bidi, bong, cigar, cigarette, cigarillo, hookah, kretek, plant, pipe, weed, or other lighted tobacco product or device. For purposes of this Section, “smoking” shall also include the use of an e-cigarette, as defined in City Code Section 70-401.

**Sec. 74-252. - Establishment.**

- (a) *Establishment of Green Space.* A City Green Space system shall be established and maintained to permanently preserve natural Green Spaces, wildlife habitats and scenic views; protect woodlands, wetlands, rivers and streams; and expand on the Clinton River Greenway and other trail corridors.
- (b) *Establishment of rules for operation.* Rules for the operation of the City Green Space shall be established in order to preserve the Green Space for the benefit of the community and to safeguard life and property.

**Sec. 74-253. - Applicability.**

This article shall apply to all property owned and/or operated as Green Space by the City. The City Council shall designate Green Space areas by resolution. Such resolution shall contain a full legal description of the Green Space property. City Green Spaces shall be posted as such by the City and their borders delineated to inform the public that the area is a Green Space.

**Sec. 74-254. – Interference with duties prohibited.**

It shall be unlawful for any person to interfere with or in any manner hinder any employee or agent of the City performing his or her official duties in the administration or policing of a Green Space or to refuse to obey any lawful command of any such employee or agent.

**Sec. 74-255. - Emergency powers.**

Nothing in this article shall prohibit the Mayor or the Mayor’s designee from establishing emergency rules designed to protect the health, welfare, and safety of Green Space visitors, to protect Green Space property, and to maintain order.

**DIVISION 2. – RULES AND REGULATIONS**

**Sec. 74-256. - Hours.**

The City Council may establish hours of operation for Green Spaces by resolution. No person shall enter or remain within a Green Space at any other time, unless the hours have been temporarily extended by the Mayor or the Mayor’s designee. The established hours of operation shall be posted at the Green Space.

**Sec. 74-257. - Closed areas.**

The Mayor or the Mayor's designee may declare a Green Space or a portion of a Green Space closed to public use or entry. During periods when a Green Space or portion thereof is declared closed, it shall be unlawful to enter or remain within such closed area at any time, except by persons whose presence is related to or in connection with a municipal activity or a project or an activity that has been permitted to be carried on within such Green Space. Closed Areas should be posted or otherwise demarked onsite.

**Sec. 74-258. - Motor vehicles.**

- (a) *Operation within Green Space.* It shall be unlawful to operate a motor vehicle except on designated roads and parking areas within a Green Space, except as may be necessary for authorized maintenance or an emergency.
- (b) *Stopping, standing or parking.* It shall be unlawful for the operator of a motor vehicle to stop, stand, or park upon any roadway or in any parking area within a Green Space in such manner as to impede or obstruct vehicular or pedestrian passage.
- (c) *Motorbikes and sport vehicles.* It shall be unlawful to operate any motorcycle, trail bike, all-terrain vehicle, or similar type of sport vehicle anywhere in a Green Space except on the designated roads and parking areas.
- (d) *Sleds, toboggans, snowmobiles, etc.* It shall be unlawful to operate any motor-driven sled, toboggan, snowmobile, or similar type of vehicle anywhere in a Green Space.

**Sec. 74-259. - Bicycles.**

It shall be unlawful to ride a bicycle within a Green Space except on designated roads and parking areas.

**Sec. 74-260. - Use of lakes and ponds.**

- (a) *Swimming.* No person shall swim, bathe, wade or scuba dive in a Green Space lake, river, pond, or stream.
- (b) *Watercraft.* No person shall bring into, use or navigate any watercraft of any kind, whether powered or not, including model or toy watercraft, within a Green Space, except in areas authorized or designated by the city for that purpose. This subsection shall not apply to boats made available by the City or its agent.
- (c) *Fishing.* Fishing in waters within a Green Space is permitted, unless otherwise posted, in accordance with state laws and regulations and with a valid fishing license.

**Sec. 74-261. - Camping.**

Camping is prohibited in Green Space, except in authorized areas pursuant to a permit issued by the mayor or the mayor's designee.

**Sec. 74-262. - Fires.**

It shall be unlawful to build or ignite any fire within a Green Space, except as may be authorized by the mayor or the mayor's designee for management purposes.

**DIVISION 3. – PROHIBITED OR RESTRICTED ACTIVITIES**

**Sec. 74-263. - Malicious destruction.**

- (a) *Property.* It shall be unlawful to willfully destroy, deface, mark, cut, break, alter, change or remove any marker, structure, equipment, fence, foundation, gate, lamppost or notice of any kind within a Green Space.
- (b) *Trees, plants and natural surroundings.* Within a Green Space, it shall be unlawful to do the following, except as may be authorized by the mayor or the mayor's designee for management purposes:
  - (1) Cut, remove, poison, or destroy any plant, including trees of whatever size, or deface or injure a plant in any way;
  - (2) Pick, uproot, remove or destroy any flower, plant or grass; or
  - (3) Remove or cause to be removed any sod, earth, humus, peat, boulder, gravel, or sand.
- (c) *Wildlife.* It shall be unlawful for any person to hunt, trap, catch, wound, chase, harass, poison, kill or treat cruelly any bird or animal or attempt any of such activities or to molest or rob the nest, den or burrow of any such animal or bird within a Green Space, except as may be authorized by the mayor or the mayor's designee for management purposes.
  - (1) *Contraband.* All game animals, fowl, and birds hunted, killed, taken or destroyed, bought, sold, bartered or had in possession contrary to this article shall be and are declared to be contraband, and the animals, fowl, and birds may be turned over to the state department of natural resources or properly disposed of by city officials.

**Sec. 74-264. - Littering.**

- (a) *Generally.* No person shall drop, throw or otherwise scatter any material, object, or substance that is not part of the natural environment in a Green Space, except in designated waste receptacles.
- (b) *Inflammable materials.* No person shall drop, throw, or otherwise scatter lighted matches or burning cigars, cigarettes, tobacco paper, or other inflammable material within a Green Space.

**Sec. 74-265. - Restriction of use.**

It shall be unlawful for any person, other than authorized city personnel, to attempt to prevent any other person from entering, leaving or using a Green Space, by force, threats, intimidation, unlawful fencing or any other means.

**Sec. 74-266. - Alcoholic beverages.**

It shall be unlawful to bring in, possess, consume, or use alcoholic beverages within a Green Space.

**Sec. 74-267. - Smoking**

Smoking is prohibited in Green Spaces.

**Sec. 74-268. - Drugs.**

It shall be unlawful to bring in, possess, use, ingest, or be under the influence of intoxicants, narcotics or any other controlled substance while in a Green Space, unless such possession or use is in accordance with a valid prescription.

**Sec. 74-269. - Firearms and weapons.**

It shall be unlawful to discharge any firearm, air rifle, airgun, or any other weapon that propels projectiles by any means in a Green Space. However, this section shall not apply to any authorized peace officer while carrying out the duties of his position, nor to any individual who discharges a firearm in lawful self-defense or the lawful defense of another individual.

**Sec. 74-270. - Peddling, soliciting or advertising.**

It shall be unlawful to peddle or solicit business of any nature or distribute any written material of a commercial nature or post unauthorized signs within a Green Space.

**Sec. 74-271. - Animals.**

- (a) *Pets.* No pets shall be allowed in a Green Space.
- (b) *Horses.* It shall be unlawful to ride, lead or cause a horse to be in a Green Space or any portion thereof posted against such use.

**Sec. 74-272. - Construction.**

No structure or shanty shall be erected, constructed, or maintained above or below ground within a Green Space or upon the waters or ice of any lake, river, pond, stream, or designated wetland within a Green Space by persons other than city employees or agents except on specific permit by the city.

**Sec. 74-273. - Maintenance.**

Green Spaces shall receive minimal maintenance and for all intents and purposes shall be left in or returned to a natural condition, subject only to the necessary removal of manmade debris and the maintenance of pathways, lands, rivers, streams, watercourses or previously existing easements as required by law or deemed necessary to the public health, safety and welfare. Nature paths, feeder stations, and similar non-disruptive uses shall be acceptable within the designated area.

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. Penalty. All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court’s discretion.

Section 4. Repeal, Effective Date, Adoption.

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

(2) Effective Date. This ordinance shall become effective on \_\_\_\_\_, following its publication in the *Oakland Press* on \_\_\_\_\_, 2019.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on \_\_\_\_\_, 2019.

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Bryan K. Barnett, Mayor  
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON \_\_\_\_\_, 2019.

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Tina Barton, Clerk  
City of Rochester Hills