

10/09/2007

ORDINANCE NO. _____

AN ORDINANCE TO ADD CHAPTER 84, PROPERTY MAINTENANCE CODE , OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO REGULATE THE MAINTENANCE OF PROPERTY AND PREVENT BLIGHT, REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Chapter 84, Property Maintenance Code, shall be added as follows:

CHAPTER 84
Property Maintenance Code

ARTICLE I. IN GENERAL

Sec. 84-1. Definitions.

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:

Adjoining property owner means a person who solely or jointly holds an ownership interest in property adjoining or contiguous to a sidewalk or who is purchasing such property under a land contract. Where applicable, the term “adjoining property owner” shall include homeowners' associations and condominium associations.

Brush means cut or broken branches.

Building materials includes but is not limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, structural or miscellaneous steel, nails, or any other materials used in construction.

Bus means a motor vehicle, other than a trailer, designed to carry more than 15 passengers. The term does not include a school bus or a motor vehicle that is converted, equipped and used for living or camping purposes.

Camper enclosure means a structure or enclosure designed for mounting on a pickup truck or truck chassis in such a manner as to provide temporary living or sleeping quarters, including but not limited to a slide-in camper or truck cap.

Commercial equipment means any machinery, parts, accessories, construction equipment or other equipment used primarily in the course of conducting a trade or business, and roll off dumpsters and portable storage units in residential districts.

Commercial vehicle means any vehicle used to generate income or which has the appearance that it is used for business, due to size, type, signage and/or accessories. A pickup truck, passenger/cargo-style van with seating of up to 15 persons, sports/utility vehicle and passenger car without signage and accessories shall not be considered, for purposes of this chapter, as a commercial vehicle, even though used in business.

Construction equipment means a bulldozer, front-end loader, backhoe, power shovel, cement mixer, trencher, and any other equipment designed or used for construction, including parts and accessories thereto, and trailers designed for the transportation of such equipment.

Exotic invasive plant species means a plant species that is not originally native to the area and has no natural controls and is able to out-compete and gradually displace native plants.

Exterior property means the open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination means the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

Fence means and includes any wall, barrier, screen or other structure installed for the purpose of separating, screening, obscuring or protecting property.

Garage sale means a sale of used household effects, appliances, clothing, china, glassware and other such items by a person from their residence by means of a display of such items in the yard, garage, patio, parking area or other like place in, around or near such residence. "Garage sale" also means an estate sale and/or auction conducted at or around a residence or in a residential subdivision. It shall not mean the sale of a single automobile by means of a "For Sale" sign on the vehicle.

Garbage means the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Infestation means the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Handbill means any printed or written matter, sample, device, circular, leaflet, pamphlet, paper, booklet or other writing intended for distribution, but not including signs or newspapers.

Junk includes parts of machinery or motor vehicles; unused stoves, refrigerators or other appliances stored in the open; remnants of wood; metal; or any other material or castoff material of any kind, whether or not such could be put to any reasonable use at some future time.

Landscaping materials included but is not limited to dirt, sand, stone, rocks, block, timbers, plantings, wood chips/mulch, or any other materials used in landscaping.

Litter means all trash, rubbish, combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal and other combustible materials, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Native plant means a plant species that has naturally evolved in the local region over thousands of years under certain soil, hydrologic and other site conditions.

Natural landscaped area means premises that are landscaped so as to exhibit the deliberate and conscious decision to plant, cultivate and maintain those native plant species identified as wildflower, grass, shrub or tree. This landscaping tries to capture the character and spirit of nature in a designed landscape by arranging plants in a community context, similar to their arrangement in nature.

Newspaper shall mean and include any newspaper of general circulation, as defined by general law, any newspaper duly entered with the United States Postal Service, in accordance with federal law or regulation, and any newspaper filed and recorded with any recording officer, as provided by general law: and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold or distributed to the public.

Noxious weeds includes Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* 1), poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*), oxeye daisies, goldenrod, all types of exotic invasive plant species, grass or weeds of a height exceeding eight inches, or other plant which is determined by the city to be deleterious to health, safety, or public welfare or a common nuisance.

Occupant means any person living or sleeping in a building, or having possession of a space within a building.

Owner means any person, agent, operator, firm or corporation having a legal or equitable ownership interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control

of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Portable storage container means a purpose/built transportable, fully enclosed, box-like container that is designed for temporary storage of materials and/or equipment.

Public place shall mean and include any and all streets, boulevards, avenues, lanes, alleys or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.

Recreational vehicle means a mobile structure or unit designed or altered to provide temporary living quarters for recreation, camping or travel use, but not for commercial use. It may be self-propelled or designed to be drawn by a motor vehicle. The term “recreational vehicle” includes but is not limited to a motor home, truck camper, travel trailer, folding camping trailer, or a converted van or bus.

Residential district means any R-1, R 2, R-3, R-4, RCD, RM-1, MH or SP elderly housing zoning district.

Roll-off debris container means an open-top metal box used for the containment of construction or demolition debris, yard waste, or other similar waste and/or debris items. Such containers generally range in size between ten (10) and forty (40) cubic yards and between three (3) and six (6) feet in height and are commonly transported by flatbed truck.

School bus means a motor vehicle, other than a station wagon, with a manufacturer's rated seating capacity of eight or more children, which is owned by a public, private or governmental agency and which is operated for the transportation of children to or from school. The term also means a motor vehicle, other than a station wagon, that is privately owned and operated for compensation for the transportation of children to or from school.

Public sidewalk means a public pathway constructed of concrete for public use, five feet in width, and located on public streets.

Structure means that which is built or constructed on the ground or a portion thereof.

Swimming pool means any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

Trailer means a vehicle, other than a utility trailer, designed for carrying property and for being drawn by a motor vehicle.

Truck tractor means a truck designed primarily for drawing another vehicle and not so constructed as to carry a load other than a part of the weight of the vehicle or trailer and of the load so drawn.

Unlicensed/Inoperable includes any motor vehicle that is kept, parked or stored, other than in a completely enclosed building, and is not in operating condition, is not properly licensed or is incapable of performing the transportation function for which it was manufactured.

Utility trailer means a vehicle designed to be towed by a motor vehicle in order to carry personal property, including but not limited to firewood, refuse, snowmobiles, boats, motorcycles or recreational equipment, or used solely for noncommercial purposes.

Vehicle means any device in, upon, or by which a person or property may be transported or drawn.

84-2. Purpose.

Blight, potential blight, certain environmental causes of blight, or blighting factors that exist or that may exist shall be prevented, reduced, or eliminated, consistent with the letter and spirit of Public Act No. 344 of 1945 (MCL 125.71 et seq.)

84-3. Enforcement.

Violations of this Chapter shall be a municipal civil infraction and shall be enforced by such person as may be designated by the mayor.

84-4. Blight.

(a) Causes of blight or blighting factors.

It is determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods:

- (1) *Unlicensed/Inoperable.* In any area zoned for residential purposes, the storage upon any property of unlicensed, inoperable or junk automobiles, except in a completely enclosed building.
- (2) *Building materials.* In any area zoned for residential purposes, the storage upon any property of building materials unless there is in force a valid building permit issued by the city for construction upon the property and the materials are intended for use in connection with such construction.

- (3) *Junk.* In any area zoned for residential purposes, the storage or accumulation of junk, trash, appliances, rubbish, or refuse of any kind, except for domestic refuse stored in a covered container for a period not to exceed 30 days; firewood that is neatly stacked so as not to provide harborage for rodents and vermin; and yard waste compost piles that are properly maintained to prevent odor, rodent, vermin or insect nuisances.
- (4) Uninhabitable structures.
- a. *Due to disaster.* In any area, the existence of any structure or part of a structure which, because of fire, wind, storm, or other disaster, is no longer habitable as a dwelling or is not safe or useful for any other purpose for which it may have been intended and is left in that condition for a period of more than six months.
- b. *Due to physical deterioration.* In any area, the existence of any structure or part of a structure which, because of physical deterioration, is no longer habitable as a dwelling or is not safe or useful for any other purpose for which it may have been intended.
- (5) *Partially completed structures.* In any area, the existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the city and unless such construction is completed within the life of the building permit or a valid extension thereof.
- (6) *Public roads and utility rights-of-way.* In any area, allowing any of the causes of blight or blighting factors in subsections (1) through (5) of this section to exist on any public road right-of-way located between private property and an existing or dedicated street, alley, road or highway or upon any public utility easement or right-of-way located adjacent to such property.
- (7) *Firewood.* Storage of firewood; removal of cleared brush.
- a. Firewood shall be stacked in a neat, orderly manner, and when outdoors at least six (6) inches from any building or structure. Firewood shall not be stored in the front yard of any parcel occupied for single-family residential use.
- b. Within fifteen (15) days of the cutting or clearing of any trees, brush or other vegetation (but not including farm products), wood to be retained as firewood shall be stacked in accordance with subpart a., above, and all other cleared brush and vegetation material shall be removed from the site.

- c. Compliance with subparts a. and b. shall be the responsibility of both the owner and any occupant or other person in possession or control of the premises.
- (8) *Compost Piles.* “Compost piles may include a combination of yard and garden waste (such as weeds, bark, grass clippings, stalks and stems, brush or vines), wood ashes, horse manure, coffee grounds, vegetable scraps, citrus rinds and fruit peelings, egg, peanut and nut shells. Compost piles shall not include meats, dairy products, vegetable oils, cooked foods, or plastics, synthetics or other non-biodegradable materials. Compost piles shall not be located within any drainage easement. Compost piles shall not be located in any side yard or closer than five (5) feet to any property line. Compost piles shall not exceed four (4) feet by eight (8) feet or six (6) feet in diameter and shall not exceed four (4) feet in height. Double compost piles may be utilized, provided the total size does not exceed the above. Compost piles shall be maintained in a manner to prevent the escape of offensive odors to adjacent property.
 - (9) *Landscaping.* All exterior property areas shall be kept free from vegetation, weeds, bushes and tall grass and trees which present a visual blight upon the area, which may harbor insect or rodent infestations, or result in a condition which may threaten the health and safety or the economic welfare of adjacent property owners or occupants.
 - (10) *Appliances.* It shall be unlawful for any person to place at the roadside for collection by a solid waste contractor, any ice box, refrigerator, deep freeze or other device with doors within the city unless all doors of the icebox, refrigerator, deep freeze or other device with doors shall have been removed prior to such disposal.
- (b) Responsibilities of property owners, tenants and occupants.
 - (1) *Property owners.* No property owner shall maintain or permit to be maintained any of the causes of blight or blighting factors set forth in Chapter 84 or Chapter 46 upon any property in the city owned by such person.
 - (2) *Occupants.* Any occupant of property in the city shall also be responsible for any of the causes of blight or blighting factors set forth in Chapter 46 that he creates or permits on the property leased or occupied by him.
- (c) Applicability to non-residential areas.
 - (1) *Generally.* The causes of blight or blighting factors set forth in Chapter 46 as applicable to areas zoned for residential purposes are also determined to be causes of blight or blighting factors and subject to the prohibitions of

this Chapter if located in areas zoned for non-residential purposes, unless such uses of property are incidental to and necessary for the carrying out of any business or occupation lawfully being carried on upon the property in question.

- (2) *Considerations.* For purposes of this article, such business or occupation shall be considered lawful only when being carried out in a manner as prescribed by chapter 138 pertaining to zoning and any other applicable provisions, laws, or regulations of the city, county, state or federal governments. The proof that such use is incidental to and necessary for the carrying out of such business shall rest with the owner or user of the property, and such use shall not, in any case, constitute a hazard to the health or welfare of the citizens of the city.

84-5. Dogs and animals.

(a) **Unclean housing.**

No person shall cause or allow any stable or place where any dog or other animal is or may be kept to become unclean or unwholesome to an extent that it becomes a health problem or nuisance to abutting residences.

(b) **Sanitary disposal of feces.**

It shall be unlawful for any person in control of a dog or other animal traveling upon a public right-of-way to fail to pick up and remove such animal's feces, manure or solid waste.

84-6. Fences.

(a) **Nonconforming fences.**

It shall be unlawful for any person to keep or maintain any fence to which this article applies that does not conform to the standards for fences set forth herein unless a variance is obtained.

(b) **Applicability.**

- (1) *Generally.* The standards for fences contained in subsection (c), below, shall apply to all fences installed or replaced in the city, subject only to those exceptions set forth in subpart (2) of this section.
- (2) *Exceptions.* This article shall not apply to the following fences installed or replaced:
 - a. In accordance with a site plan approved under chapter 138 pertaining to zoning; or

- b. Swimming pool enclosures as specified in the state construction code.

(c) **Standards.**

Only those fences that meet all of the following standards shall be allowed:

- (1) *Location.* Fences shall be located entirely on the owner's property, except that fences owned in common by adjoining property owners may be located on the common property line.
- (2) *Height.* Fences shall not exceed eight feet in height measured from the ground surface.
- (3) *Materials.* Materials shall be as follows:
 - a. *Generally.* Any natural or synthetic material that is all-weather resistant and is engineered and designed to be used for permanent installation as a fence or screening material shall be used.
 - b. *Chainlink slats.* Chainlink fences may be supplemented with woven metal (i.e., aluminum, galvanized or other metal with protective coating) insertable slats.
 - c. *Used materials.* No used materials, not including rock and brick, shall be used as fence material unless approved by the building department.
- (4) *Barbed wire.* Barbed wire may not be installed on fences, except that barbed wire may be installed above the top line of a six-foot fence located in a nonresidential zoning district and enclosing a storage area. Barbs on a chainlink fence are not allowed on any exposed portion of the fence below six feet.
- (5) *Proper installation and maintenance.* Fences shall be installed and maintained free from defects, safety hazards and collapse, and shall be kept in good repair. No signs, words, letters, images or illustrations, except for those signs required in subpart (6) of this subsection, may be painted or otherwise affixed to fences.
- (6) *Electrification.* Electrically charged fences are prohibited, except that the building department may approve electric fences for the purpose of retaining animals under the following circumstances:

- a. *Nonhazardous.* Sufficient proof has been presented that the fence will not be hazardous to persons or animals;
- b. *Power source.* The power source shall be obtained from a listed electric fence controller; and
- c. *Signs.* Signs shall be conspicuously located on the fence warning that the fence is electrified.

(7) *Corner clearance.* The corner clearance requirements of chapter 138 shall be observed.

84-7. Garage Sales.

- (a) *Frequency.* No person shall have more than four (4) garage sales at any residence during a consecutive twelve-month period.
- (b) *Duration.* No garage sale may last more than seventy-two (72) hours.
- (c) *Allowable sale items.* Garage sales shall be limited to sales of items which had actually been used in the normal course of residential living in the home at which the sale is to occur and shall not be transported to such home for purposes of the sale. This does not prohibit minor joint garage sale activities among family or nearby neighbors.
- (d) *Hours.* No garage sale shall continue later than one-half hour after sunset nor begin prior to 9:00am.
- (e) *Traffic obstruction.* No garage sale shall be situated so as to obstruct traffic, nor shall any garage sale patrons park their vehicle so as to obstruct traffic.
- (f) *Noise.* Excessive noise emanation from the area of any garage sale is prohibited.
- (g) *Sign placement.* The placing of signage shall be in compliance with Sections Chapter 134-7(5) and 134-109(b). All signs must be removed at the end the sale.

84-8. Graffiti.

- (a) **Purpose and intent.**

It is the purpose and intent of this section to provide a procedure for the prevention, prohibition and removal of graffiti from walls, structures or surfaces on public and private property in order to reduce blight and deterioration within the City and to protect the public health and safety.

(b) **Defacement of property.**

No person shall purposely damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner or occupant to restore said surface to an approved state of maintenance and repair.

84-9. Handbills.

(a) **Throwing or scattering in public places prohibited.**

It shall be unlawful for any person to throw, scatter or cast any handbill in or upon any public place within this city. It shall not be unlawful for any person to hand out or distribute, without charge to the receiver thereof, any handbill in any public place to any person willing to accept such handbill.

(b) **Placing in vehicles.**

It shall be unlawful for any person to distribute, deposit, place, throw, scatter or cast any handbill in or upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting or distributing of any handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same.

(c) **Distribution on uninhabited or vacant private premises.**

It shall be unlawful for any person to knowingly distribute, deposit, place, throw, scatter or cast any handbill in or upon any private premises which are uninhabited or vacant.

(d) **Distribution on inhabited private premises.**

No person shall distribute, deposit, place, throw, scatter or cast any handbill in or upon any private premises which are inhabited, and posted prohibiting such distributions, or when requested by the owner not to do so. If the property is not posted then the handbill must be so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere.

(e) **Exemptions.**

The provisions of this section shall not be deemed to apply to the distributions of mail by the United States, nor to newspapers, nor to political candidates or issues or religious organizations.

84-10. Private Sidewalks.

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas on private property shall be kept in a proper state of repair, and maintained free from hazardous conditions.

84-11. Public Sidewalks.

(a) Maintenance by property owner.

The adjoining property owner or occupant of the lot or premises shall maintain the sidewalk adjoining such property. Such sidewalk shall be kept as follows:

- (1) Free from defects of every kind and nature and maintained in a condition of good repair.
- (2) Free from any deposits of debris, rubbish, or other objects that might or could be hazardous to persons using the sidewalk.
- (3) Free and clear from accumulations of snow, sleet, ice, and water as follows:
 - a. When any snow or ice shall cease to fall or form during the daylight hours, such snow or ice shall be cleared from the sidewalk within 48 hours after such cessation.
 - b. When any snow or ice shall cease to fall or form during the nighttime, such snow or ice shall be cleared from the sidewalk within 48 hours after sunrise.
- (4) Free from obstructions encroaching from adjoining or adjacent property, including but not limited to overhanging tree limbs, bushes and the like. The minimum clearances that shall be maintained free from such obstructions shall be eight feet vertical and three feet horizontal.
- (5) Free from obstructions from adjoining or adjacent property interfering with site distance lines, at driveways and other sidewalks intersecting the sidewalk. A clear and unobstructed site triangle must be created using a base leg of 15 feet from the site obstruction to any sidewalk or driveways or sidewalks intersecting such sidewalk.

(b) Repair of damage by developer.

Sidewalks provided by a developer that are damaged prior to occupancy shall be repaired by the developer prior to the date of final occupancy, or if repairs cannot be

made, a cash escrow in an amount equal to 150 percent of the projected cost for such repairs shall be posted with the city.

(c) **Repair or reconstruction by property owner.**

- (1) *Written notice.* Upon determination by the Department of Public Service that any sidewalk or portion thereof is in need of repair or elimination from encroachment, the department shall serve a written notice upon the adjoining property owner to the portion of such sidewalk requiring repair or elimination of encroachment by first class mail to the owner in accordance with the following:
 - a. *Determination of property owners.* Adjoining property owners shall be determined from the current city tax roll.
 - b. *Proration of cost among adjoining owners.* When a sidewalk requiring repair or reconstruction is contiguous to more than one lot or parcel, costs of such repair or reconstruction shall be prorated between adjoining property owners on the basis of front footage repaired.
 - A. The failure of one adjoining property owner to undertake such repair where such sidewalk abuts more than a single parcel shall not excuse the remaining adjoining property owner from the duties established in this section.
 - B. Such notice shall require that the adjoining property owner shall perform such repairs or elimination of encroachments within 45 days of the date of such notice.
- (2) *Failure to comply.* Failure to comply shall subject the owner to the following:
 - a. *Correction by city; owner billed cost.* If the adjoining property owner fails to repair the sidewalk or remove the encroachment within 45 days of such notice, the city may perform the repair or remove the encroachment and bill such adjoining property owner the total cost thereof, together with an additional fee of 15 percent for engineering supervision and general administration expense.
 - b. *Lien against property.* If payment is not received by the city within 60 days after such billing, such amount shall become a lien on the property and shall be assessed and collected in the same manner as other taxes and assessments under the Michigan General Property Tax Act, Public Act No. 206 of 1893 (MCL 211.1 et seq.), as amended.

84-12. Rodents.

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that are not to be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation. The owner or occupant of the property shall be responsible for compliance to this section.

84-13. Solid Waste.

(a) Storage of refuse.

For the purpose of this section, garbage and rubbish shall be stored as follows:

- (1) *Accumulation.* Except as otherwise provided, no person shall permit garbage and/or rubbish to accumulate upon his premises, except in plastic bags, disposable cartons, or in strong metal or plastic containers.
- (2) *Containers.* If containers are used, they shall:
 - a. Be rodent proof and watertight.
 - b. Have a capacity of not more than 50 pounds by weight, unless they are on wheels and compatible with equipment of the licensed waste hauler servicing the property.
 - c. Have tight covers, which shall be in place whenever such containers are placed for collection or located out-of-doors, except when garbage is being deposited or removed.
 - d. Be kept in a clean and sanitary condition at all times, and stored when not in use in the side or rear yard.

(b) Containers standing for collection.

- (1) Under this section, refuse, including garbage, may be deposited at the place for collection in plastic bags, disposable cartons, or metal or plastic containers, but shall not be left standing in the location for more than 24 hours. If after 72 hours the refuse is not removed, the City shall place a 24-hour notice on the premises advising of the violation. If after the issuance of the 24-hour notice, the refuse standing at the roadside has not been removed the City may cause the refuse to be removed at the owners expense.
- (2) Recycling containers and yard clippings shall be placed on collection day at the street or authorized location, but shall not be left in the location for more than 24 hours.

(c) **Covers.**

- (1) *Securing.* When plastic containers are used for mixed solid waste pursuant to this section, tops shall be secured to prevent paper or debris from spilling or otherwise escaping from the containers. Paper bags shall not be permitted, except to hold newspapers.
- (2) *Exclusions for building or demolition sites.* No covers shall be required on containers used for refuse, except garbage, on a site for which a building or demolition permit has been issued and is outstanding.

(d) **Newspapers.**

Stacks of newspapers may be placed at the street in a container or paper bag, or bundled with string.

(e) **Yard clippings.**

- (1) Except as provided in this section, yard clippings shall be placed in specially designated bags or containers.
- (2) If placed in disposable bags or containers, such bags or containers shall be biodegradable bags or containers.
- (3) If permitted by the waste hauler, small tree limbs, two inches or less in diameter, may be collected only if cut into lengths not to exceed three feet and tied securely into bundles not to exceed three feet in girth.

(f) **Ashes.**

Containers for ashes shall be of sturdy construction, made of metal, and shall have adequate handles to prevent spillage.

(g) **Recyclable materials.**

- (1) *Separation.* Separation of recyclable materials shall be in accordance with the following:
 - a. *Generally.* The occupant of any single-family residence in the city shall separate recyclable materials and place them in properly marked containers at the street on normal refuse pickup days as established by contract with a licensed waste hauler.
 - b. *Yard clippings.* The occupants of any single-family residence who dispose of yard waste shall separate yard clippings from solid

waste and prepare them for pickup as established by contract with a licensed waste hauler.

- (2) *Ownership.* At the time any recyclable material is placed at curbside or another predetermined collection point, it shall become the joint property of the waste hauler and the generator of such recyclable material. It shall be a violation of this article for any person not authorized by the waste hauler or the generator of the recyclable material to collect or pick up or to cause to be collected or picked up any such recyclable materials.
- (3) *Other disposal.* Notwithstanding the requirements of this section, any person who is a generator of recyclable materials may donate or sell recyclable materials to any recycling program lawfully operated for profit, nonprofit, or charitable purposes. The buyer or receiver of such recyclable materials, however, if not a licensed waste hauling unit, shall not pick up recyclable materials from the street or any other collection point in the city.

84-14. Swimming Pools.

(a) **Maintenance of swimming and architectural pools.**

All swimming and architectural pools and spas shall be properly maintained so as not to create a safety hazard or harbor insect infestation, or create a visible deteriorated or blighted appearance. Water shall not be allowed to stagnate, or to become stale or foul through lack of circulation. The bottom and sides of the pool or spa shall be maintained reasonably free of sediment, dirt, slime and algae. The water shall be sufficiently clear so that the bottom of the pool in the deepest part is clearly visible to an adult standing on the pool deck.

(b) **Enclosures.**

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the poolside of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

84-15. Vacant Buildings.

- (a) A structure shall be considered blight if:
 - (1) That dwelling is vacant, dilapidated and open at the door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; or
 - (2) Has remained vacant and boarded up for more than 180 days.
- (b) Within 180 days building that are boarded up must have windows that are properly glazed and operational. All exterior doors, door assemblies and door hardware must function properly and tightly secure the doors.
- (c) Buildings that have remained vacant and boarded for more than 180 days will be considered as blight and the Building Department may seek an order to demolish the building.

84-16. Vehicles.

- (a) **Commercial vehicles and equipment.**
 - (1) *Public property.* No person shall park or store any commercial vehicle identified in subpart (2)(a) of this section or commercial equipment on public property located in any zoning district, including but not limited to public streets, stub streets, rights-of-way, bike paths, greenbelts, and planting areas between bike paths and streets, except as allowed in subsection (4) of this section.
 - (2) Residential districts.
 - a. No person shall park or store any step vans, cube vans, buses, dump trucks, stake trucks, flatbed trucks, wreckers, semi trucks and trailers, tank trucks, commercial and construction equipment and trailers and any similar trucks and equipment in a residential district, except as allowed in subpart (4) of this subsection.
 - b. Commercial vehicles other than as specified in subsection (2)(a) of this section, such as pickup trucks, passenger/cargo-style vans with seating of up to 15 persons, sport utility vehicles, passenger cars, and similar type vehicles, with no more than allowed accessories as provided in subpart (2)(d) of this subsection may be parked or stored in a residential district.
 - c. No more than one commercial vehicle of the type described in subpart (2)(b) of this subsection which is used for transportation by

occupants of the home on the property shall be stored or parked outside of an enclosed building.

- d. Allowed accessories shall mean equipment attached to vehicles which does not extend a vehicle to more than nine feet in height or wider or longer than the manufacturer's specification for the vehicle without the equipment. Roof accessory racks, but not side racks, shall be allowed. A plow on the front and a spreader on the rear of a vehicle may be attached even if the length of the vehicle is extended beyond the manufacturer's specification.
- e. No person shall park or store a vehicle outside of an enclosed building in a residential district if there is a sign on it not directly related to the vehicle's use.

(3) *Nonresidential districts.* No person shall park or store any commercial vehicle identified in subpart (2)(a) of this subsection or commercial equipment on private property in any nonresidential district except as is allowed in subpart (4) of this subsection or unless such vehicle or equipment is parked or stored in relation to a permitted principal or accessory use of the property. In such event, parking or storage must comply with all other city codes and ordinances.

(4) *Exception.* The parking or storage of commercial vehicles identified in subpart (2)(a) of this subsection or commercial equipment shall be allowed in any zoning district, where such parking or storage is limited to vehicles or equipment engaged in the performance of a service on the adjacent or underlying property, for the period of time reasonably necessary to complete the service.

(b) **Vehicle for sale.**

- (1) No person shall park any motor vehicle on any private property in the city without the expressed or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property.
- (2) No person shall park any motor vehicle on any private property, with or without consent of the owner, within 100 feet of a street right-of-way with a speed limit greater than 25 MPH for the principal purpose of displaying the vehicle for sale, displaying, advertising, or selling merchandise from such vehicle, except within the defined limits of a duly established new or used automobile dealership or sales lot, which shall not include bike paths adjacent to any automobile dealership or sales lot, or when so authorized or licensed under the ordinance code provisions of the city.

(c) **Inoperable/Unlicensed vehicles.**

- (1) No person shall keep, park, or store a vehicle in any residential district, other than in a completely enclosed building, unless the vehicle is in operating condition, properly licensed, and capable of performing the transportation function for which it was manufactured. The purpose of this section is to prevent the accumulation of junk motor vehicles, and, therefore, it shall not apply to any motor vehicle ordinarily used, but temporarily out of running condition.
- (2) Likewise, no person shall keep or store any junk, including but not limited to old, rusty, wrecked, damaged, deteriorated or discarded machinery, appliances, scrap metals, materials or parts not suited for use upon the premises or quantities of old and used building materials outside of a completely enclosed building; provided, however, that building materials fit to be used to improve the premises may be kept if piled off the ground so as not to become a potential rat and rodent harborage.
- (3) A motor vehicle which does not otherwise comply with the requirements of this section is to be stored outdoors for a long period because a family member is in the military service or some other similar reason and the vehicle is determined by the building department to be not detrimental to the area, the building department may grant the right to store the vehicle for such period under the best conditions available, which conditions shall be stated in writing. No vehicle shall be stored unused in the front yard for more than 90 days. After ninety days, the vehicle must be stored in a side or rear yard. Unused vehicles stored under a tarp must be stored in a side or a rear yard.

(d) **Recreational Vehicles.**

- (1) No person shall park and/or store a recreational vehicle, snowmobile, camper enclosure, utility trailer, boat or similar vehicle or equipment not owned by the occupant or owner of the premises for a period exceeding 72 hours on lands not approved for such parking or storage, except that the building department may grant a temporary permit allowing the parking of a recreational vehicle on private property not to exceed a period of two weeks. All recreational vehicles, snowmobiles, camper enclosures, utility trailers, boats, and similar vehicles or equipment owned by city residents stored in residential districts on their individual lots or premises shall not be stored within any front yard or any required side yard and shall further conform to the requirements in section 138-1067 applicable to accessory buildings, insofar as distances from main buildings, lot lines, and rights-of-way are concerned.

- (2) In addition, the parking and storage of recreational vehicles, snowmobiles, camper enclosures, utility trailers, boats and similar vehicles or equipment in residential districts shall be subject to the following restrictions:
- a. All such units parked or stored outside of a completely enclosed building shall be kept in a state of proper repair and secured to prevent unauthorized entry.
 - b. The parking and storage of such units shall be limited to a lot or parcel upon which an occupied dwelling is located.
 - c. No such unit shall be connected to electricity, gas, water or sanitary sewer facilities, except that a temporary electrical connection may be made for the purpose of recharging batteries.
 - d. No such unit shall at any time be used for living or housekeeping purposes while on the premises.
 - e. No person shall park or store any such unit upon any public property, including public streets, stub streets, rights-of-way, bike paths and planting areas between pathways and streets, except as allowed in subpart (2)(f) of this section.
 - f. Notwithstanding any provisions to the contrary, such a unit may be temporarily parked or stored within any front yard or on a public street for a period not to exceed 72 hours for the purpose of loading, unloading, trip preparation or minor, routine maintenance and repair, although at no time shall any unmounted camper enclosure or any snowmobile or boat not mounted on a utility trailer be parked or stored within any front yard, required side yard or public street.

(e) Responsibility for compliance.

The owner of the vehicle, equipment or other unit and the owner or occupant of private property upon which the vehicle, equipment or other unit is parked or stored shall each be responsible for compliance with the terms of this section. In any proceeding for the violation of any section of this section, the person to whom the vehicle, equipment or unit is registered, as determined from the registration plate displayed on the vehicle, equipment or unit, shall be presumed in evidence to be the owner. If no registration plate exists, the owner shall be presumed in evidence to be the titleholder, lessee or other person with an immediate right of possession. For purposes of determining the ownership of real property, it shall be presumed in evidence that the person to whom the property is assessed on the city's most recent tax assessment roll is the owner of the property.

- (f) **Violations.**
- (1) *Notice.* A written notice of violation of this division shall be served on the person in violation directing the discontinuance and abatement of the illegal action or condition within 24 hours. For purposes of serving this notice on a commercial or recreational vehicle owner, it shall be sufficient to affix the notice in a conspicuous place on the vehicle.
 - (2) *Failure to comply.* Failure to comply with the notice of violation shall constitute a violation of this section.
 - (3) *Subsequent violations.* For subsequent or repeat violations by the same person, a written notice of violation shall not be required.

84-17. Weed Control.

(a) **Purpose.**

Noxious weeds found growing in the city shall be controlled and eradicated as provided in this article.

(b) **Growth of weeds prohibited.**

- (1) *Subdivisions.* The owner or occupant of any lot in any subdivision in the city in which buildings have been erected on 60 percent of the lots in that subdivision shall cut or destroy all noxious weeds growing on the lot.
- (2) *Along improved streets.* The owner or occupant of any land in the city which abuts an improved street in common usage shall cut or destroy all noxious weeds growing on the land for a depth of 100 feet.
- (3) *Abutting property of subdivision, school, park or occupied residential.* The owner or occupant of any land, platted or unplatted, in the city which abuts a subdivision or condominium in which buildings have been erected on 60 percent of the lots in that subdivision or condominium or which abuts any school, park, playground or occupied residential property shall cut or destroy all noxious weeds growing on the land for a depth of 100 feet.
- (4) *Failure to cut and destroy.* Any owner or occupant of land in the city who fails to comply with subparts (1) through (3) of this subsection will be responsible for a municipal civil infraction.

- (5) Subparts (1) through (4), above, shall not apply to noxious weeds in a natural landscaped area, except that natural landscaping shall not be located within two (2) feet of the front property line, or public right-of-way, sidewalk or pathway.

(c) **Cutting and destruction by city.**

- (1) *Action authorized.* If the following notice or a substantially similar notice is published in the month of March of any year in a newspaper regularly distributed in the city and the owner or occupant of any land to which this article applies shall fail or refuse to comply with this section after due notice, any officer, inspector or other agent authorized by the mayor may enter upon such land after May 1 of that year and as many times thereafter as is necessary to cut or destroy any and all noxious weeds located thereon.
- (2) *Published notice.* The notice as provided in subpart (1) of this section shall be substantially in the following form:

“TO ALL OWNERS OR OCCUPANTS OF LAND IN THE CITY
OF ROCHESTER HILLS:

Notice is hereby given that after May 1 of this year the provisions of section 84-17, Weed Control, of the Code of Ordinances of the City of Rochester Hills will be enforced. This section requires the owner or occupant of:

- (1) Any lot in any subdivision or condominium in the city in which buildings have been erected on 60 percent of the lots in that subdivision to cut or destroy all noxious weeds growing on the lot;
- (2) Any land in the city which abuts an improved street in common usage to cut or destroy all noxious weeds growing on the land for a depth of 100 feet; and
- (3) Any land, platted or unplatted, in the city which abuts a subdivision or condominium in which buildings have been erected on 60 percent of the lots in that subdivision or condominium, or which abuts any school, park, playground or occupied residential property to cut or destroy all noxious weeds growing on the land for a depth of 100 feet.

If, after May 1 of this year, the owner or occupant of any land to which this section applies shall fail or refuse to comply with the provisions of this section, then any officer, inspector or

other agent authorized by the City of Rochester Hills may enter upon the land as many times as is necessary, to cut or destroy all noxious weeds growing thereon. The owner or occupant of the land shall be responsible for all costs incurred by the city in connection with such cutting or destruction plus a 30 percent administrative fee.

If the charges are not paid within 30 days after billing, payment shall be deemed delinquent and shall be enforceable as a tax lien against the land.

Any person who violates any of the provisions of section 84-17, Weed Control, of the Code of Ordinances of the City of Rochester Hills, shall, in addition to the other obligations imposed thereby or by other applicable law, be responsible for a municipal civil infraction and subject to a civil fine.

A copy of section 84-17 and additional information may be obtained from the Rochester Hills Clerk's Office."

- (3) *Means to be utilized.* In the discretion of the officer, inspector, or other agent authorized by the city, manual and/or mechanical means may be used, and all due care shall be taken to avoid unnecessary damage to any land.
- (4) *Responsibility for cost.* Responsibility for cost of weed cutting pursuant to this section shall be in accordance with the following:
 - a. *Costs.* The owner or occupant of land shall be responsible for all costs incurred by the city in connection with weed cutting or destruction, plus a 30 percent administrative fee.
 - b. *Lien.* From the time of the commencement of the cutting and destruction of such noxious weeds, the city shall have a lien upon the land for the amount arising under subpart (4)(a) of this subsection.
- (5) *Collection of costs.* The city shall charge and collect all costs arising under subpart (4) of this subsection in accordance with section 90-30 of this Code.
 - a. *Billing and delinquent charges.* If the charges arising under subpart (4) of this section are not paid by the owner or occupant of the land within 30 days after the date of billing the owner or occupant by regular mail, payment shall be deemed delinquent.

- b. *Enforcement of lien.* A lien created pursuant to this article shall be enforceable in the manner prescribed by the City Charter and state law for the enforcement of a tax lien against the land.

(d) **Allocation of fines.**

Fines, when collected pursuant to this section, shall become a part of the city's noxious weed control fund.

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 municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500.

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 _____, 2007, following its publication in the *Rochester Eccentric* on _____, 2007.

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

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
WEDNESDAY, _____, 2007.

Jane Leslie, City Clerk
City of Rochester Hills