

10/08/2009

ORDINANCE NO. ____

AN ORDINANCE TO AMEND SECTION 84-17 OF ARTICLE I, CHAPTER 84, PROPERTY MAINTENANCE CODE OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO REMOVE REFERENCES TO NATURAL LANDSCAPE, CLARIFY THE WEED CUTTING CHARGE; REPEAL CONFLICTING ORDINANCES AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 84-17 of Chapter 84 of the Code of Ordinances shall be amended, as follows:

Sec. 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 and in the adjacent right-of-way between the lot and the street.

(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 from street edge.

(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 subsections (1) through (3), of this subsection will be responsible for a municipal civil infraction.

~~(5) Subsections (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 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 subsection (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 article requires the owner or occupant of:

- (1) Any lot in any subdivision 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 in which buildings have been erected on 60 percent of the lots in that subdivision, 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 an administration and enforcement fee equal to 1.6 times the amount paid by the City to its weed cutting contractor.

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 Offices."

- (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~~ an administration and enforcement fee equal to 1.6 times the amount paid by the City to its weed cutting contractor.
 - 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 subsection (4)(a) of this subsection.
- (5) *Collection of costs.* The city shall charge and collect all costs arising under subsection (4) of this subsection in accordance with section 90-30 of this Code.
- a. *Billing and delinquent charges.* If the charges arising under subsection (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. Article III Weed Control of Chapter 106 of the Code of Ordinances shall be repealed in its entirety.

Section 3. 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 _____, following its publication in the *Rochester Post* on _____, 2009.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2009.

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 _____, 2009.

Jane Leslie, Clerk
City of Rochester Hills