

07/13/05

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 94-143 OF CHAPTER 94, STREETS, SIDEWALKS AND CERTAIN OTHER PLACES, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO REDUCE THE TIME REQUIRED FOR NOTICE AND COMPLIANCE WITH NOTICE TO A PROPERTY OWNER TO REPAIR A SIDEWALK OR REMOVE AN ENCROACHMENT FROM A SIDEWALK, TO REPEAL CONFLICTING ORDINANCES AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 94-143 of Chapter 94 of the Code of Ordinances shall be amended, as follows:

Sec. 94-143. Repair or reconstruction by property owner.

(a) *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 last known address of such owner in accordance with the following:

- (1) *Determination of property owners.* Adjoining property owners shall be determined from the current city tax roll.
- (2) *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 forage 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 ~~120~~45 days of the date of such notice.

(b) *Failure to comply.* Failure to comply shall subject the owner to the following:

- (1) *Correction by city; owner billed cost.* If the adjoining property owner fails to repair the sidewalk or remove the encroachment within ~~120~~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.
- (2) *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 Laws, Public Act No. 206 of 1893 (MCL 211.1 et seq. MSA 7.1 et seq.).

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 *Rochester Eccentric* on _____.

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

Pat Somerville, 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,

_____.

Jane Leslie, Clerk
City of Rochester Hills