

CITY OF SYLVAN LAKE
OAKLAND COUNTY, MICHIGAN

RESOLUTION

REGULATING HOMEOWNERS'
USE/IMPROVEMENT OF CITY'S RIGHT-OF-WAY

(Section 58-110(2)(c) of the Right-of-Way Regulation Ordinance)

At a regular City Council meeting held on October 23, 2007, pursuant to the City of Sylvan Lake Ordinance No.254, The Right-of-Way Regulation Ordinance, Section 58-110(2)(c), it was moved by Conkey seconded by Maurina, that the following policy and regulations are hereby established for any homeowner desiring to do work or make improvements in the city road right-of-way:

Purpose: The purpose of this policy is to outline specific requirements for improving, maintaining and using the road right-of-way(ROW) in order to maintain safety for pedestrians and motorists, aesthetic appeal and proper drainage while allowing limited use and improvements to the area. The ROW is the area of land between the paved portion of the street and the adjacent property owner's property line.

Intent: It is the intent of this policy that the ROW maintains the appearance of grass to the edge of the pavement in residential neighborhoods. It is also the intent to keep the ROW safe by limiting improvements in ROW.

1. Abutting property/homeowners are required to provide normal maintenance of the road right-of-way (ROW) area adjacent to their property from the property line to the edge of the paved portion of the street. Normal maintenance includes mowing, removing weeds, leaves and debris and maintaining any culverts under their driveway(s) sidewalks(s) parking areas or ditch enclosures, to maintain proper drainage. If the ROW is in a state of disrepair due to parking in a non-improved portion of the ROW, the adjacent property owner will be notified that they must restore the property to grass in accordance with this policy.

2. Any improvement to the ROW shall require an application and a plan to be submitted by the homeowner, on forms provided by the city, to City Hall for review and approval and the issuance of a permit in accordance with the approval. Proper drainage must be maintained at all times. An Improvement is considered any work performed *other than* planting flowers or other approved low vegetation. Activities including but not limited to, digging, filling, placing culverts, sidewalks, planting a tree(s), stones, placing lawn irrigation lines, etc. are considered improvements and require a permit

3. The homeowner shall apply for a building permit following normal permit procedures. A performance bond in the amount of \$250 will also be required, payable to the City of Sylvan Lake. If it is necessary for the City's consulting engineer to review the plans, the property owner will be responsible for that cost.

4. All driveway approaches must be paved. Paving can be with asphalt, concrete, brick pavers or similar type material. Gravel, dirt or other types of loose material are strictly prohibited. Driveway approaches may not be more than 8 feet wider than the driveway (4' on each side) with a maximum width of 29 feet. Example: if your driveway is 14 feet wide, the approach can be no more than 22 feet wide at the street ($14' + 4' + 4' = 22'$).

5. The Right-of-way area must be grass or other approved vegetative ground cover. Approved ground cover would be of a type that would not be hazardous to pedestrians that must seek a safe area off the edge of the street. Flowers and plants such as hosta's may be allowed. Vegetation cannot interfere with the site line of motorists or pedestrians. At grade boulders for retention or around culvert ends are allowed, but must be approved by the City Manager. Stone, asphalt, concrete, or other landscaping materials (i.e.: wood chips, etc.) in the right-of-way are strictly prohibited. Any above grade landscaping improvements, including but not limited to, rocks, boulders, planters, reflectors, etc., shall be located no closer than 4' from the hard surface travel portion of the street, with the exception of sidewalks and deciduous trees described herein as follows:

- a. Follow the permit procedures as outlined in paragraph 3.
 - b. For non-corner lots, Deciduous trees only, may be planted no closer than 6 feet from the hard surface travel portion of the street so long as the tree is not located in a ditch, is not interfering with drainage, and is not a danger to pedestrian and/or vehicular travel on the roadway.
 - c. If a property/homeowner plants a tree in the ROW adjacent to their property, a permit must be obtained following the procedure outlined in paragraph 3 above. Such planting will be recorded at city hall that the property owner will be responsible for the proper maintenance of that tree in accordance with reasonable city standards. If the tree is not maintained properly as required by the city (i.e., dead limbs cut, diseased or dead tree removed), the city may perform the maintenance or contract for said maintenance and charge the cost thereof to the property owner. If the property owner does not pay the said amount, the unpaid amount shall be a lien against the property and assessed on the tax roll for said property and collected as other city taxes are collected.
 - d. If the city plants a tree in the ROW, the city shall be responsible for the maintenance of the tree.
 - e. A sidewalk may be installed perpendicular to the street. The sidewalk must be concrete, brick pavers or asphalt. Loose material such as gravel or woodchips is not acceptable. The sidewalk must be one-half (1/2) inch below the grade of the street and cannot be more than 48 inches wide. Proper drainage must be maintained and may require the installation of a culvert and/or other drainage structure.
6. Existing non-conforming improvements. Existing non-conforming improvements are hereby separated into two categories as outlined in paragraphs a and b below. All corrections of existing non-conforming improvements will be made at the property

owners' expense. If the corrections and improvements are not made within the time specified, the work will be completed by the city and the costs thereof billed to the abutting property owner. If the abutting property owner does not pay the expenses within thirty (30) days of the presentment of the bill, the amount remaining unpaid shall be a lien against the property, assessed on the tax roll for said property, and collected by the city as other city taxes are collected.

- a. Above Grade Landscaping Improvements. Any above grade landscaping features within 4 feet of the street pavement, including planters, rocks, boulders, reflectors, etc. must be removed within a reasonable amount of time as stated in a notice sent by the City.
- b. Parking Areas. Non-conforming parking areas.
 - (1) Drainage inspection permit is required at a cost of \$200. If the area does not drain properly or poses a dangerous situation do to elevation, gravel type, etc., it must be corrected within 90 days of notification by the City.

7. Appeals by Homeowner/Property Owner

- a. An aggrieved Homeowner/Property Owner may appeal a decision of the city administration regarding the requirement of this resolution to the City Council by filing an appeal on forms provided by the city with the City Clerk within 30 days after the city's notification of the corrective action required.
- b. The appeal must provide facts and information containing the grounds or reasons for the appeal which will not be contrary to the purpose and intent of this resolution.
- c. An appeal fee in the amount of \$250.00 must be paid to the city at the time the appeal is filed with the city clerk.
- d. The appeal and notice of the appeal and hearing date must be given to the persons to whom real property within 300 feet of the premises in question is assessed, and to occupants of single and two family dwellings within 300 feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last city assessment roll. At the hearing, the party may appear in person or by agent or by attorney. Notice must be given at least 10 days prior to the hearing date.
- e. The City Council shall decide the appeal within a reasonable time, and may reverse, affirm, or modify the determination appealed from after appropriate hearing and review. The decision of the City Council shall be final.
- f. Standards for Review. The City Council may modify the determination made by the city administration upon finding affirmatively that:
 - (1) The purpose and intent of the resolution is not violated;
 - (2) Public safety is secured;

- (3) Substantial justice is done;
- (4) The plight of the property owner in complying with the requirements is unique to the property;
- (5) The unique circumstances are not the result of actions of the applicant/ property owner and/or his predecessor in interest;
- (6) The granting of the request will not alter the essential character of the street right of way in the neighborhood;
- (7) The granting of the request will not be injurious to the neighborhood or otherwise detrimental to the general welfare.

Yes: Conkey, Lorenz, Maurina, Shepp
No: Hungerman

RESOLUTION ADOPTED

Dennise Clippert, City Clerk