

VILLAGE OF ROSCOMMON
ORDINANCE 21

The Village of Roscommon Ordains:

SECTION 1. SHORT TITLE

This ordinance may be referred to as the Sidewalk Ordinance

SECTION 2. DEFINITION For the use in this ordinance, the term "sidewalk" shall be defined as a paved walk for pedestrians at the side of a street, connecting either with another paved walk perpendicular to itself at the end of a block or ending in a connection with a road surface.

SECTION 3. MAINTENANCE

Every owner or occupant of any house or building and every owner of or agent for the owner of any lot within the Village, shall keep the sidewalk in front of or adjoining any such building, house, or lot free from all dirt, filth, rubbish, encumbrances and obstructions.

Every owner or occupant of any house of building and every owner of or agent for the owner of any lot within the Village, shall keep the constructed sidewalks front of, or adjacent to such premises cleared from snow and ice which will impede passage on such sidewalks.

No person shall remove any snow or ice from any private property, including any private driveway, road, or parking area, and deposit the same in or upon any public property, including streets, sidewalks, crosswalks, ditches and gutters.

Every owner or occupant of any house or building and every owner of or agent for the owner of any lot within the Village, shall maintain the area between the sidewalk and the paved driving surface of the roadway, including the cutting of grass, as defined in the Village of Roscommon blight ordinance. Failure to maintain this area may be construed a violation of the Village blight ordinance.

SECTION 4. REPAIR

The expense of repairing any sidewalk shall be incurred by the Village and shall be paid out of the general fund. If more than twenty-five percent (25%) of any sidewalk shall require repair, that work shall then be deemed reconstruction. Sidewalks that are damaged or removed by an owner, renter or contractor during work done at a property shall be repaired/replaced by property owner unless prior evaluation has been made by the Village Manager as to the condition of the sidewalk. The evaluation shall determine whether the sidewalk condition warrants repair or reconstruction.

It is hereby made the duty of all persons to keep in reasonable repair all sidewalks in front of all lands or premises owned or occupied by them so that the sidewalks will be reasonably safe and fit for public travel. If any owner or occupant of any lands or premises in the city shall neglect or refuse to keep a sidewalk in repair, or shall allow a condition of disrepair so as not to be in condition reasonably safe and fit for public travel any sidewalk in front of his land or premises, such owner or occupant shall be liable to the Village for all damages and costs recovered from and against the Village in any court of competent jurisdiction, with costs of suit, and the judgement recovered against the Village shall be conclusive evidence of the liability of such owner or occupant to the Village. Notice of the pendency of any suit brought against the Village for the recovery of such damages shall be given such owner or occupant or to the agent, if known, of such owner if such premises is unoccupied, and he or they are permitted to assist in the defense of such suit if he or they so request.

SECTION 5. CONSTRUCTION

Whenever the Village shall deem that the construction of a new sidewalk, or the reconstruction of an old sidewalk a necessary public improvement, it shall so declare by resolution, describing the property upon which such construction or reconstruction is ordered.

It shall be the responsibility of the Village Manager or Clerk, within five (5) days after the adoption of such resolution, to cause a notice of such resolution to be served upon the owners or occupants of the parcels of land upon which the sidewalk is to be constructed or reconstructed. Service of such notice shall be as follows:

- (a) By handling the same personally to the resident owner of the premises, if known, or by leaving the same at his residence, office or place of business with some person of suitable age and discretion.
- (b) If the owner is a nonresident of the Village, by leaving the same with a resident agent of the owner, either at a place of business or rental home.
- (c) If such nonresident owner shall have no known agent in the Village, service shall be made by posting such notice in some conspicuous place on the parcel of land and/or by mailing the same to the last known address of such nonresident owner by first class mail.

Notice shall direct the owner, or agent of the owner, to construct or reconstruct as the case may be, such sidewalk as stated in the resolution within twenty-one (21) days of such notice, or, in default thereof, the sidewalk will be constructed or reconstructed, as the case may be, by the Village. The

Village, may at its discretion, hire a private contractor for such work. The cost of such work shall be assessed against the adjacent property in the same manner as provided for assessments for other public improvements. The Village Council may, by a 2/3 vote of the entire council, pay such part of the construction or reconstruction costs of such sidewalks as they may consider proper. This cost will be charged against the general fund of the Village.

SECTION 6. ENCROACHMENTS

All commercial establishments within the Village of Roscommon, with frontage along a public sidewalk, are held responsible for assuring said sidewalk is free of obstacles to pedestrian traffic. An unobstructed area of six (6) feet must be maintained. Outside display of general merchandise or use of a temporary sign, such as a "sandwich board sign," is permitted, as long as it does not impede pedestrian traffic and is displayed only during the periods that the establishment is open for business. No vending machines, whether owned or leased, are permitted to be established anywhere on public sidewalks.

The Roscommon Village council reserves the right to waive the above requirements for a period of no more than 5 days during community sponsored events and/or festivals. Requests for waivers must be received in adequate time for council to make a decision on the request.

That it shall be unlawful for any person or persons to drive any carriage, wagon, cart, automobile, truck, tractor, motorcycle or other vehicle across any sidewalk inside the said village, excepting for the purpose of ingress and egress to and from lands across the sidewalk, and then only where the said sidewalk has been expressly constructed for said crossing.

Encroachments on or above any part of any public sidewalk shall not be permitted except for marquees, awnings, signs or other facilities where specifically authorized by the ordinance of this Village and when erected and maintained in accordance therewith; provided, such encroachments shall not be less than eight (8) feet above the grade of the sidewalk. The Village manager, with authorization from the council, may authorize temporarily the erection of flags and other suitable decorations along a public sidewalk in observation of holidays, parades or other civic functions.

SECTION 7. ENFORCEMENT

When a complaint is received and it has been verified that a violation of this ordinance exists, any person violating any provisions of this Ordinance shall be responsible for a civil infraction. The penalty for the first offense shall be \$30.00 and for the first repeat offense, \$50.00. Repeat offense shall be defined as an violation of said ordinance which has been ticketed for within the past 5 days. For any second or subsequent repeat offense, the fine shall be no more than \$250.00. It shall be the duty of the Village Manager of the Village of Roscommon, or authorized representative, to enforce the provisions of this Ordinance. If, after investigation, the Village Manager, or authorized representative, determines that a violation of this Ordinance exists, he shall be authorized to issue a municipal civil infraction citation to any person, firm, or corporation that is responsible for violating the provisions of this Ordinance. Service of said civil infraction citation or civil infraction notice shall be made in accordance with MCL 600.8707, Public Act 12 of 1994.

Permitting a violation of the Ordinance on private premises is hereby declared to constitute a nuisance per se. Upon application to any court of competent jurisdiction, the Court may order the nuisance abated and/or the violation restrained and enjoined. The enforcement of the Ordinance by abatement of any nuisance by the enforcing officer or by application to any court of competent jurisdiction for abatement by judicial decree or writ shall not preclude enforcement of the Ordinance by the issuance of a municipal civil infraction and the imposition of fine and costs. Complaint for violation of this Ordinance and the imposition of fine or imprisonment as herein provided.

SECTION 8. REPEALER

All ordinances or parts of ordinance in conflict herewith are repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 9. SEVERABILITY

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

SECTION 10. EFFECTIVE DATE

This Ordinance shall become effective in the Village of Roscommon following adoption by the Village Council and two weeks after publication.

ADOPTED: November 13, 1997
PUBLISHED: November 23, 1997
EFFECTIVE: December 8, 1997