

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 90-26, 90-63, 90-67, AND 90-69, OF CHAPTER 90, SPECIAL ASSESSMENTS, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO MODIFY DEFINITIONS, CITY ENGINEER'S REPORT, RESOLUTION TO PROCEED, AND OBJECTIONS TO IMPROVEMENT, AND TO REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 90-26 of Chapter 90 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 90-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means an owner and spouse, if any, who file an application for deferral under this article.

Assessor means the director of the department of assessing.

Boulevard lighting system means any design or method of providing light to a street; provided, however, that such system shall be provided only by DTE Energy~~Detroit Edison~~.

~~*City engineer* means the director of the department of engineering.~~

Continuing assessment means an assessment made for the cost of operating and maintaining a boulevard lighting system which is to be paid annually on an ongoing basis so long as such system is maintained.

Cost, when referring to the cost of any improvement, includes the cost of surveys, plans, right-of-way, spreading of rolls, notices, advertising, financing, construction, legal fees, administrative expense, condemnation and all other costs incidental to condemnation; all other costs incidental to the making of such improvement, the special assessments therefor and the financing thereof; and the cost of the installation, operation and maintenance of any boulevard lighting system by DTE Energy~~Detroit Edison~~, whether that service is provided directly by DTE Energy~~Detroit Edison~~, its franchisee, or under contract to the city. If service is rendered by the city, costs may include the fair and reasonable cost of rendering the service.

Cost formula means, when referring to an assessment for boulevard lighting where continuing assessments are made for the cost of operating and maintaining such system, the annual amount charged to the city by an investor-owned or public utility or by a private contractor for such operation and maintenance plus an annual percentage established by the council in the resolution of necessity for the cost to the city of administering such boulevard lighting system.

Homestead means a dwelling owned and occupied as a home by the owner thereof, including all contiguous unoccupied real property owned by the person.

Household means a housing unit consisting of related persons residing in a homestead who are aged 18 or older and who are not claimed as dependents on the owner's state or federal income tax returns.

Household income means all income received by all members of a household in a tax year while members of a household. If any household member has become unemployed or has resigned from employment within the six-month period prior to the application date, the household income shall be computed at the rate of pay immediately prior to the termination or resignation from employment with the following exceptions:

- (1) The applicant has permanently retired.
- (2) The applicant has received a permanent medical leave due to total disability.

Improvement means a public improvement of such a nature as to benefit especially any real property, any part of the cost of which is to be assessed against one or more lots or parcels of land in proportion to the benefit derived therefrom.

Income means the sum of federal adjusted gross income as defined in 26 USC 1 et seq. of the Internal Revenue Code, plus all income specifically excluded or exempt from the computations of the federal adjusted gross income. The term does not include the following:

- (1) The first \$300.00 of gifts in cash or kind from nongovernmental sources or the first \$300.00 received from awards, prizes, lottery, bingo, or other gambling winnings.
- (2) Surplus foods; relief in kind supplied by a governmental agency; payments or credits under this article; any governmental grant which has to be used by the claimant for rehabilitation of the homestead; amounts deducted from monthly social security or railroad retirement benefits for Medicare premiums; or

contributions by an employer to life, accident, or health insurance plans.

- (3) Energy assistance grants and energy assistance tax credits.

Net worth means the total value of assets owned less total liabilities. The term "net worth" does not include the value of the homestead and the value of any one automobile registered in the name of the owner of the homestead.

Owner means a person who holds solely or jointly a fee interest in a homestead or who is purchasing a homestead under a mortgage or land contract.

Street means a public avenue, street, highway, road, path, boulevard, or alley or other access used for travel by the public.

Section 2. Section 90-63 of Chapter 90 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 90-63. - City engineer's report and draft special assessment roll.

(a) *Survey Engineer's Report.* Before the city council shall decide on making any local or public improvement, it shall be referred by resolution to the city engineer directing the preparation of a report which shall include necessary plans, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the proposed assessment district, in the case of a continuing assessment for boulevard lighting, the estimated annual cost of the operation and maintenance of the improvement, and such other pertinent information as will permit the council to decide the cost, extent and necessity of the improvement proposed and what part or proportion, if any, thereof should be paid by the city at large.

(b) *Draft special assessment roll.* The City Council shall also, before deciding whether to make any local or public improvement, direct the assessor to prepare a draft special assessment roll. The assessor shall file the roll with the city clerk for presentation to the council.

(c) *Costs of condemned property.* Whenever any property is acquired by condemnation or otherwise, for the purpose of any public improvement, the cost thereof and of the proceedings required to acquire such property may be added to the cost of such public improvement.

Section 3. Section 90-67 of Chapter 90 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 90-67. - Resolution to proceed.

If the determination of the council shall be to proceed with the public improvement, a resolution shall be passed as follows:

- (1) Determining the necessity of the improvement. If the improvement is the installation of boulevard lighting, the council shall also determine the necessity of operation and maintenance of the improvement.
- (2) Approving the necessary plans, specifications and detailed estimates of cost. If the improvement is the installation of boulevard lighting, the council shall also approve the projected cost formula to be utilized in computing continuing assessments for operation and maintenance of the improvement.
- ~~(3) Prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefitted, determination of benefits received by affected properties and what part or proportion, if any, shall be paid by the city at large.~~
- ~~(4) Delineating the limits of the special assessment district.~~
- ~~(5) Determining the method to be used to make the assessment.~~
- ~~(6) Directing the assessor to prepare a special assessment roll in accordance with the council's determination and report the roll for confirmation. The assessor shall file the roll with the city clerk for presentation to the council.~~

Section 4. Section 90-69 of Chapter 90 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 90-69. - Objections to improvement.

- (a) *Notice of proposed special assessment.* After the public hearing on necessity has been held by the city council pursuant to section 90-65, the city clerk shall send notice of the proposed special assessment to all property owners within the proposed special assessment district, advising them of such proposed special assessment and of the procedure by which objections to such special assessment may be filed as provided in this section.
- (b) *Written petitions submitted.* If, after the public hearing has been held by the city council pursuant to section 90-65, there is a desire by the property owners within the limits of the proposed special assessment district to terminate the project, written petitions

objecting to the proposed improvements shall be available from the city clerk's office commencing on the 14th day after the public hearing. Such petitions shall be circulated for a period not to exceed 14 days, which period shall commence on the 14th day after the public hearing. The signed petitions shall be delivered to the city clerk no later than 12:00 noon on the 28th day, or the next city business day if the offices are closed on the 28th day, immediately following the public hearing.

(c) *Discontinuation of proceedings.* The improvement shall not be made by proceedings authorized by this article if, within the time period for filing objections as provided for in this section, the owners of more than 50 percent of the following shall object in writing to the proposed improvement:

- (1) The total land area;
- (2) Front footage; or
- (3) Number or parcels or units to be assessed, ~~as determined by the council in a resolution adopted following the public hearing held pursuant to section 90-65.~~

Section 5. 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 6. 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 7. 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 _____, 2021 following its publication in the *Oakland Press* on _____, 2021.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2021.

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 _____, 2021.

Leanne Scott, Clerk
City of Rochester Hills