

06/08/2011

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO REPEAL ARTICLE II OF CHAPTER 130, PLANNING, AND REPLACE IT WITH NEW ARTICLE II, PLANNING COMMISSION, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN TO CONFIRM THE ESTABLISHMENT UNDER THE MICHIGAN PLANNING ENABLING ACT, PUBLIC ACT 33 OF 2008, MCL 125.3801, ET SEQ., OF THE CITY OF ROCHESTER HILLS PLANNING COMMISSION, PROVIDE FOR THE COMPOSITION OF THE PLANNING COMMISSION; PROVIDE FOR THE POWERS, DUTIES AND LIMITATIONS OF THE PLANNING COMMISSION; REPEAL ANY ORDINANCE OR PARTS OF ORDINANCES OR RESOLUTIONS IN CONFLICT WITH THIS ORDINANCE AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Article II of Chapter 130 of the Codified Ordinances of the City of Rochester Hills is hereby repealed in its entirety and replaced by the following new Chapter 130:

## **ARTICLE II. PLANNING COMMISSION**

### **Sec. 130-26. Purpose and intent.**

This ordinance is adopted pursuant to the authority granted the to City Council under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a Planning Commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this Article and any future amendments to this Article.

The purpose of this Article is to provide that the Rochester Hills City Council hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the City of Rochester Hills Planning Commission formerly established under the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq. to establish the appointments, terms, and membership of the Planning Commission; to identify the officers and the minimum number of meetings per year of the Planning Commission; and to prescribe the authority, powers and duties of the Planning Commission.

### **Sec. 130-27. Establishment.**

The City Council hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the City of Rochester Hills Planning Commission formerly established under the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq. The Planning Commission shall have 9 members. Members of the Planning Commission as of the effective date of this Article shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to that member's term on the City Council, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

**Sec. 130-28. Appointment and term.**

- (a) *Generally.* The Mayor, with the approval of the City Council by a majority vote of the members elected and serving, shall appoint all Planning Commission members, except for the ex officio member.
- (b) *Term Length.* The Planning Commission members, other than the ex officio member, shall serve for terms of 3 years.
- (c) *Vacancy.* A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.
- (d) *Membership Criteria.* Planning Commission members shall be qualified electors of the City, except that one Planning Commission member may be an individual who is not a qualified elector of the City. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the City, in accordance with the major interests as they exist in the City, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the City to the extent practicable.
- (e) *Ex Officio Member.* One member of the City Council shall be appointed by the City Council to the Planning Commission as an ex officio member with full voting right. The ex officio member's term on the Planning Commission shall expire with his or her term on the City Council, and otherwise shall be for the length of time established in the resolution of appointment.
- (f) *Ineligibility of Other City Officers and Employees.* No other elected officer or employee of the City is eligible to be a member of the Planning Commission.

**Sec. 130-29. Removal of members.**

The City Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

**Sec. 130-30. Conflict of interest.**

- (a) *Disclosure.* Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office.
- (b) *Bylaws.* For the purposes of this Section, the Planning Commission shall define conflict of interest in its bylaws.

**Sec. 130-31. Compensation.**

The Planning Commission members may be compensated for their services as provided by City Council resolution.

**Sec.130-32. Officers and committees.**

- (a) *Election of Officers.* The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. The ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the Planning Commission bylaws.
- (b) *Advisory Committees.* The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

**Sec. 130-33. Bylaws, meetings and records.**

- (a) *Bylaws.* The Planning Commission shall adopt bylaws for the transaction of business.
- (b) *Meetings.* The Planning Commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings.
- (c) *Special Meetings.* Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to Planning Commission members at least 48 hours before the meeting.
- (d) *Open Meetings.* The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq, as amended.
- (e) *Public Records.* The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq, as amended.

**Sec. 130-34 Annual report.**

The Planning Commission shall make an annual written report to the City Council concerning its operations and the status of the planning activities, including recommendations regarding actions by the City Council related to planning and development.

**Sec. 130-35. Master plan.**

- (a) *Preparation.* Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the City's planning jurisdiction.
- (b) *Approval.* Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the City Council passes a resolution asserting the right to approve or reject the master plan.
- (c) *Existing Plan.* Unless rescinded by the City, any plan adopted or amended under the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq. need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

**Sec. 130-36. Zoning powers.**

(a) *Transfer of Zoning Commission Powers.* The City Council hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former City and Village Zoning Act, Public Act 207 of 1921, MCL 125.281, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the City of Rochester Hills Planning Commission formerly established under the Municipal Planning Act, Public Act 285 of 1931, MCL 125.31, et seq.

(b) *Existing Ordinance.* Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the City Council.

**Sec. 130-37. Capital improvements program.**

To further the desirable future development of the City under the master plan, the Planning Commission, after the master plan is adopted, shall annually prepare a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period.

**Sec. 130-38. Subdivision and land division recommendations.**

(a) *Ordinance or Rule.* The Planning Commission may recommend to the City Council provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the Planning Commission shall hold a public hearing on the proposed ordinance or rule. The Planning Commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the City.

(b) *Plat Review.* The Planning Commission shall review and make recommendation on a proposed plat before action thereon by the City Council under the Land Division Act, Public Act 288 of 1967, MCL 560.101, et seq., as amended. Before making its recommendation, the Planning Commission shall hold a public hearing on the proposed plat. A plat submitted to the Planning Commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the City. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

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 municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, or as otherwise prescribed herein.

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 \_\_\_\_\_, 2011, following its publication in the *Rochester Post* on \_\_\_\_\_, 2011.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on \_\_\_\_\_, 2011.

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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 \_\_\_\_\_, 2011.

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Jane Leslie, Clerk  
City of Rochester Hills