RESOLUTION NO. 2013-08

RESOLUTION ADOPTING A SUPPLEMENTAL ASSESSMENT ROLL TO CORRECT ASSESSMENT.

WHEREAS, pursuant to notice duly given as required by law, the City Council has met, heard and passed upon all objections to the proposed SUPPLEMENTAL assessment for Arcon Development, and has amended such proposed SUPPLEMENTAL assessments as it deems just;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Rockville, Stearns County, Minnesota, as follows:

1. ***Such proposed SUPPLEMENTAL assessment, a copy of which is attached hereto and made part hereof is hereby accepted and shall constitute the SUPPLEMENTAL special assessment against the lands named herein, and each tract of land there is hereby found to be benefited by the proposed improvements.***
2. ***Such SUPPLEMENTAL assessment is hereby attached and marked Exhibit A.***
3. ***The owner of the property so assessed may at any time prior to the certification of the assessment to the County Auditor, pay to the Administrator/Clerk, and thereafter, at any time prior to November 15 of any year, pay to the County Auditor or Administrator/Clerk, the whole of the principal amount of the assessment on such property provided that no such prepayment shall be accepted without payment of all installments due to and including December 31 of the year of the prepayment, and the original principal amount shall be reduced only by the amounts of principal included in such installments computed on an annual amortization basis.***
4. ***The Administrator/Clerk shall forthwith transmit a certified duplicate copy of this assessment to the County Auditor to be extended on the tax list of the County.***

Adopted this 20th day of March, 2013

JEFF HAGEN
MAYOR

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

2013-08 Supplemental assess.wd.doc

CITY OF ROCKVILLE

P.O. Box 93 • 229 Broadway Street East • Rockville, Minnesota 56369

(320) 251-5836 • FAX (320) 240-9620

www.rockvillecity.org

ROCKVILLE CITY COUNCIL

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(320) 266-0377 CELL

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DON SIMON
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JUDY NEU
FINANCE/BILLING/
ADMINISTRATIVE ASSISTANT

MANDY LAIS
RECEPTIONIST/
ADMINISTRATIVE ASSISTANT

RICK HANSEN
PUBLIC WORKS DIRECTOR
250-2601 CELL

Notice of Hearing on Proposed Assessment

Rockville, Minnesota February 25, 2013.

TO WHOM IT MAY CONCERN:

Notice is hereby given that the council will meet at 6:30 p.m. on, March 20, 2013 at Rockville City Hall – 229 Broadway Street East, Rockville MN to adopt, the proposed Supplemental Assessment for Brentwood Hills Development per the Development Agreement. The Adoption by the council of the proposed Supplemental Assessment may occur at the hearing. The following is the area proposed to be assessed: Parcel #76.41720.0445

The amount to be specially assessed against your particular lot, piece, or parcel of land is $179,812.02. Said assessment was mistakenly assessed to parcel #76.41720.0443. Such assessment is proposed to be payable in one (1) installment, the first of the installments to be payable on or before the first Monday in January 2014, and will bear interest at the rate of 4.34% percent per annum from the date of the adoption of the assessment resolution. To each subsequent installment when due shall be added interest for one year on all unpaid installments.

The proposed assessment roll is on file for public inspection at the city clerk's office. The total amount of the proposed assessment is $179,812.02. Written or oral objections will be considered at the meeting. No appeal to district court may be taken as to the amount of an assessment unless a written objection signed by the affected property owner is filed with the municipal clerk prior to the assessment hearing or presented to the presiding officer at the hearing. The council may upon such notice consider any objection to the amount of a proposed individual assessment at an adjourned meeting upon such further notice to the affected property owners as it deems advisable.

An owner may appeal an assessment to district court pursuant to Minn. Stat. § 429.081 by serving notice of the appeal upon the mayor or clerk of the city within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the mayor or clerk.

Verena M. Weber

Verena M. Weber-CMC
Administrator/Clerk
City of Rockville

**Rockville City is an equal opportunity provider and employer.

elow are the amounts for the special assessments for the delinquent years.

lag	Pin	Taxpayer	Code	Description	Tax Year	Principal	Amort Interest	Penalty	Interest	Total
ax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201002	WAC/SAC FEES,STORM WATER DISCHARGE	2010	$ 47,262.16	$ 4,726.22	$ 7,278.38	$ 12,841.14	$ 72,107.90
ax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201103	WAC FEE	2011	$ 23,397.11	$ 2,339.71	$ 3,603.14	$ 3,423.00	$ 32,762.96
ax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201104	SAC FEE	2011	$ 23,397.11	$ 2,339.71	$ 3,603.16	$ 3,423.00	$ 32,762.98
ax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201204	UNPAID WAC FEE	2012	$ 16,541.76	$ 1,654.18	$ 2,547.42	$ 345.72	$ 21,089.08
ax-Forfei	76.41720.0443	STATE OF MINNESOTA	76201205	UNPAID SAC FEE	2012	$ 16,541.76	$ 1,654.18	$ 2,547.44	$ 345.72	$ 21,089.10

179,812.02

Ordinance No. 2013-77

ADOPTING A SHADE TREE ORDINANCE

The Rockville City Council ordains:

SECTION 1. Ordinance No. 2013-77 establishes standards for Shade Tree Management in the City of Rockville.

SECTION 2. The City Council determines that the text of the summary of Ordinance No. 2013-77, a copy of which is attached as Exhibit A, clearly informs the public of this Ordinance's intent and effect. The City Council further determines that publication of the title and such summary will clearly inform the public of this Ordinance's intent and effect.

SECTION 3. A complete, printed copy of this Ordinance will be available for inspection by any person during regular office hours at the Clerk/Administrator's office.

SECTION 4. Four-fifths (4/5) of the City Council's members direct the Clerk/Administrator to publish only the title and summary of this Ordinance.

SECTION 5. This Ordinance shall be effective immediately upon its passage.

Verena M. Weber-CMC
Administrator/Clerk

03/26/13

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RECEPTIONIST/
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RICK HANSEN
PUBLIC WORKS DIRECTOR
250-2601 CELL

NOTICE OF PUBLIC HEARING
CITY OF ROCKVILLE

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of Rockville will meet in the council chambers (Rockville City Hall – 229 Broadway Street East) at approximately 6:40 p.m. on Wednesday, March 20, 2013 to consider approval of:

ORDINANCE NO. 2013-77 – Adopting Shade Tree Ordinance

Copy of said proposed ordinance is on file in the office of the Administrator/ Clerk and on the city web-site at www.rockvillecity.org.

Such persons as desire to be heard with reference to the proposed ordinance will be heard at this meeting.

Verena M. Weber

Verena M. Weber-CMC
Administrator/Clerk

Publish 03/05/13
03/12/13
Cold Spring Record

In Accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Ave, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice & TDD). USDA is an equal opportunity provider and employer."

Notice of PH 2013-77 Adopt shade tree.wd.doc

ORDINANCE NO. 2013-77
ADOPTING SHADE TREE ORDINANCE

THE CITY COUNCIL OF THE CITY OF ROCKVILLE, STEARNS COUNTY, MINNESOTA DOES HEREBY ORDAIN:

SECTION 01: SHADE TREE PEST CONTROL.

Subd. 1. Declaration of policy. The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with Minn. Stat. §§ 89.001, 89.01, and 89.51-.64, the provisions of this section are adopted as an effort to control and prevent the spread of these shade tree pests.

Subd. 2. Jurisdiction. The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs, and other plantings.

Subd. 3. Declaration of a shade tree pest. The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest, as defined by Minn. Stat. § 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action.

Subd. 4. Public nuisances defined. A shade tree pest, as defined by section 02, occurring within a defined control zone is a public nuisance.

Subd. 5. Shade tree pest nuisances are unlawful. It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

Subd. 6. Tree inspector. The Council may appoint a tree inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The tree inspector will recommend to the Council the details of any program for the declaration, control, and prevention of shade tree pests. The tree inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term "tree inspector" includes any person designated by Council or the tree inspector to carry out activities authorized in this section.

Subd. 7. Abatement of shade tree pest nuisances. In abating a nuisance, defined by ordinance under section 01, subdivision 3, the organism, condition, plant, tree, wood, or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by section 02.

Subd. 8. Reporting discovery of shade tree pest. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a public nuisance caused by a shade tree pest as defined under subdivision 3 shall report the same to the city.

Subd. 9. Registration of tree care firms. Any person, firm, or corporation that provides tree care, tree trimming, or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota commissioner of Agriculture under Minn. Stat. § 18G.07.

Subd. 10. Inspection and application of control measures.

(A) The tree inspector is authorized to inspect premises and places within the city to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The tree inspector is authorized to take all reasonable measures to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms; by tests as may be recommended by the commissioner of the Minnesota Department of Agriculture or the commissioner of the Minnesota Department of Natural Resources; or other reliable means.

(B) Except in situations of imminent danger to human life and safety, the tree inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident, or other person in control of the property, unless the tree inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(C) No person, firm, or corporation shall interfere with the tree inspector or with anyone acting under the tree inspector's authority while engaged in activities authorized by this section.

Subd. 11. Standard abatement procedure. Except as provided in subdivisions 12 and 14, whenever a tree inspector determines with reasonable certainty that a public nuisance, as described by this ordinance, is being maintained or exists on premises in the city, the tree inspector is authorized to abate a public nuisance according to the procedures in this subdivision.

(A) The tree inspector will notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the city clerk.

(B) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall

specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the city clerk within seven (7) days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(C) If no timely appeal is submitted, and the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the tree inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property, and carry out abatement in accordance with the notice of abatement.

Subd. 12. High-cost abatement. If the tree inspector determines that the cost of abating a nuisance will exceed $5,000 based on a reasonable, good faith estimate, the written notice referred to in subdivision 11 must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

Subd. 13. Appeal procedure. If the city clerk receives a written request for a hearing on the question of whether a public nuisance exists, the City Council shall hold a hearing within seven (7) calendar days following receipt by the clerk of the written request. At least three (3) days notice of the hearing shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant, and lien holder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

Subd. 14. Abatement procedure in event of imminent danger.

(A) If the tree inspector determines that the danger of infestation to other shade trees is imminent, and delay in control measures may put public health, safety, or welfare in immediate danger, the tree inspector may provide for abatement without following subdivision 11 or 12. The tree inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(B) Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 15. Recovery of cost of abatement; liability and assessment.

(A) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other official shall prepare a bill for

the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

(B) After notice and hearing, as provided in Minn. Stat. § 429.061 (which may be amended from time to time), the city clerk shall, on or before Sept. 1 next following abatement of the nuisance, list the total unpaid charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The city council may then certify the charges against the property to the county auditor for collection along with current taxes the following year or in annual installments as the city council may determine in each case.

Subd. 16. Penalty.

(A) Any person, firm, or corporation that violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty, which may be imposed for any crime that is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days, or a fine of not more than $1,000, or both.

(B) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(C) The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(D) In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this section, the City Council or any official designated by it may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Subd. 17. Severability. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

SECTION .02: DECLARED SHADE TREE PESTS, CONTROL MEASURES, AND CONTROL AREAS

Subd. 1. Oak Wilt.

(A) **Oak wilt disease** is a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump, or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three (3) inches in diameter or ten (10) inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum.*

(B) **Control measures** that may be taken to abate oak wilt disease are:

(1) Installation of a root graft barrier.

A root graft barrier can be ordered installed to prevent the underground spread of oak wilt disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least forty-two (42) inches deep between any oak tree infected with oak wilt disease and each nearby and apparently healthy oak tree within fifty (50) feet of the infected tree.

(2) Removal and disposal of trees.

(a) On property zoned for residential and commercial use.

On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum.* After, and in no case before, the installation of the root graft barrier and no later than May 1 of the year following infection, all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(b) On all other property.

On all other property, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

All wood more than three (3) inches in diameter or ten (10) inches in circumference from such felled trees must be disposed of by burying, debarking, chipping, or sawing into wane-free lumber, or by splitting into firewood, stacking the firewood, and immediately covering the woodpile with unbroken four (4)-mill or thicker plastic sheeting that is sealed into the ground until Oct. 1 of the calendar year following the calendar year in which the tree was felled, or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

(C) The **control area** for oak wilt disease is defined as:
All lands within the boundaries of the city.

Subd. 2. Emerald Ash Borer.

(A) **Emerald ash borer** is a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub- or worm-like and live underneath the bark of ash trees.

(B) **Control measures** that may be taken to abate emerald ash borer are those provided in the document, *Minnesota Emerald Ash Borer Science Advisory Group Recommendations on Preparing for Emerald Ash Borer in Minnesota.* [www.mda.state.mn.us/news/publications/pestsplants/pestmanagement/eab-recommends.pdf]

(C) **Definition of control areas.** The control area for emerald ash borer is defined as:

All lands within the boundaries of the city.

Subd. 3. Dutch Elm Disease.

(A) **Dutch elm disease** is a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump, or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three (3) inches in diameter or ten (10) inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi.*

(B) **Control measures** that may be taken to abate Dutch elm disease are:

(1) Use of fungicide.

Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.

(2) Removal and disposal of trees.

Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or saw logs if it is debarked or covered from April 15 to Oct. 15 with four (4)-mill plastic. The edges of the cover must be buried or sealed to the ground.

[Refer to the USDA publication How to Identify And Manage Dutch Elm Disease (www.na.fs.fed.us/spfo/pubs/howtos/ht_ded/ht_ded.htm) for further details on management recommendations.]

(C) **Definition of control areas.** The control area for Dutch elm disease is defined as:

All lands within the boundaries of the city.

Whereupon said ordinance was declared duly passed and adopted by the City Council of the City of _____, on the _____ day of _____.

(Seal)

BY:	ATTEST:
_____	_____
Jeff Hagen Mayor	Verena M. Weber-CMC City Administrator/Clerk

ORDINANCE NO. 2013-78

AMENDING WATER BASE AND VOLUME FEES

The Rockville City Council amends Basic Code Section 52.51 Water Rates, Fees & Charges to read:

Subd. 1 Water Rate Fees will be:

A. Water Availability Fees
$ 9.54/month flat fee – OM & R (Operations, Maintenance & Replacement) +
$ 3.55/1000 gallons (volume fee)

Adopted this _____day of _____,2013.

ATTEST:

_____
JEFF HAGEN
MAYOR

_____
VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

Publish 03/26/13 Cold Spring Record

2013-78 Amend water base/volume.wd.doc

CITY OF ROCKVILLE

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ADMINISTRATIVE ASSISTANT

RICK HANSEN
PUBLIC WORKS DIRECTOR
250-2601 CELL

NOTICE OF PUBLIC HEARING
CITY OF ROCKVILLE

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of Rockville will meet in the council chambers (Rockville City Hall – 229 Broadway Street East) at approximately 6:50 p.m. on Wednesday, March 20, 2013 to consider approval of:

ORDINANCE NO. 2013-78 – Amending Water Rates – base fee and volume fee.
The Rockville City Council amends Basic Code Section 52.51 Water Rates, Fees & Charges to read:
Subd. 1 Water Rate Fees will be:

A. Water Availability Fees
$ 9.54/month flat fee – OM & R (Operations, Maintenance & Replacement) +
$ 3.55/1000 gallons (volume fee)

Such persons as desire to be heard with reference to the proposed ordinance will be heard at this meeting.

Verena M. Weber

Verena M. Weber-CMC
Administrator/Clerk

Publish 03/05/13
03/12/13
Cold Spring Record

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Notice of PH 2013-78 Amend water rate.wd.doc