

3/25/2005

41-O-05

AN ORDINANCE

**Amending Title 4, Chapter 9 of the City Code,
"Mechanical Code", by Deleting the Existing Text and
Adopting the 2003 International Mechanical Code
by Reference, Making Certain Amendments Thereto**

WHEREAS, the City Council of the City of Evanston considers it in the public interest to adopt as its standard for construction, alteration, and installation of mechanical work the *2003 International Mechanical Code*; and

WHEREAS, the City Council of the City of Evanston has caused three (3) copies of the aforesaid Code to be kept on file in the office of the City Clerk for public inspection for a period of more than thirty (30) days prior to the adoption of this ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: That Title 4, Chapter 9 of the City Code of the City of Evanston, 1979, as amended, is hereby deleted in its entirety, and a new Title 4, Chapter 9, "Mechanical Code," substituted therefor, to read as follows:

4-9-1: ADOPTION OF THE 2003 INTERNATIONAL MECHANICAL CODE:

(A) Pursuant to the authority granted by Chapter 65, Section 5/1-2-4 of the Illinois Compiled Statutes and pursuant to its home rule powers, the City of Evanston hereby adopts by reference the *2003 International Mechanical Code*, which Code shall be used together with the below-stated additions and amendments to govern the issuance of permits and the standards of performance and materials for the construction, alteration, and installation of mechanical work in the City of Evanston.

(B) Any reference in the *2003 International Mechanical Code* to "Administrative Authority", or "Building Official" shall mean the Assistant Director of Community Development of the City of Evanston Building Division. Any reference to "municipality" shall mean the City of Evanston.

4-9-1(C):

Amendments: The following sections of the *2003 International Mechanical Code*, are amended or added, to read as follows:

106.3.1: Construction documents: Construction Documents shall include a ventilation schedule using the "IMC Ventilation Schedule" form available from the Community Development Department.

303.6: Outdoor locations: Appliance installed in other than indoor locations shall be listed and labeled for outdoor installation. Noise levels from any air handling or any other such mechanical or electrical equipment, shall not exceed fifty-five (55) decibels measured at the property line.

Section 106.5.2: Fee schedule: The permit fee for inspection, construction, reconstruction, alteration and installation shall be those established from time to time by the City Council of the City of Evanston.

Section 108.5: Unlawful continuance: Any person who shall continue any mechanical work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a fine as set forth in Section 4-9-4.

Section 109.0: Means of appeal: This Section shall be deleted in its entirety from the *2003 International Mechanical Code*, adopted hereby, and these sections substituted therefor.

109.1: Application for appeal: Any person ("the Petitioner") affected by a decision of the Code Official or a notice, or order issued under this Code shall have the right to appeal to the City's Property Services Board, Title 4, Chapter 18 of the City Code, provided that a written application for appeal is filed within fifteen (15) days after the day of the decision, notice, or order was served. For purposes of this Section, a decision, notice, or order is "served" upon delivery, in the case of personal delivery, and, in the case of mailing, five (5) days after deposit in the U.S. Mail with first-class postage prepaid. The Code Official shall transmit the

appeal to the Property Services Board within three (3) business days of its filing. A person is "affected" for the purposes of an appeal pursuant to this Section when the person has a material or definitive interest in the decision, notice, or order of the Code Official. An application for appeal shall be based on a claim that the true intent of this Code, or the rules legally adopted thereunder, have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means.

The application for appeal must be in writing and include a statement of the proposal, together with any and all documentation which would aid the Board in its deliberations.

109.2: Appeal Form: The appeal shall be filed at the Permit Desk of the Community Development Department on a form ("the Appeal Form") provided for that purpose by the Code Official and made available to the public.

109.3: Notice of Property Services Board Meeting: The Property Services Board shall convene upon notice of the Chair, within fifteen (15) days of the filing of an appeal. The Building Official shall give written notice of the meeting date, time, and location in the Civic Center to the Petitioner.

109.4: Hearing Procedure: Hearings shall be conducted in accordance with written procedures on file with the Permit Desk in the Community Development Department.

109.5: Hearing Notice: Notice shall be given of the time, place, and purpose of the public hearing by posting on the premises which is the subject of the hearing a notification sign which meets the requirements set forth in the hearing procedures. The sign shall be posted not less than three (3) days before the hearing to which it refers.

109.6: Board decisions: Board decisions shall be in writing and issued within two (2) business days after the close of the hearing. In reaching its decision, the Board may consider whether the decision, notice, or order appealed from was based upon a correct interpretation of this Code, on the rules legally adopted thereunder, whether the provisions of the Code do not fully apply, or whether the requirements of this Code are adequately satisfied by other means. The Petitioner shall establish by a clear preponderance of the evidence that his proposal is equivalent or superior to the adopted Code requirement. The decision shall state that the decision is a final administrative decision which may be appealed to the Circuit Court under the Administrative Review Law,

735 ILCS 5/3-101, *et seq.*, within thirty-five (35) days of delivery of the decision. Failure to secure the concurring votes of a majority of Board members present where a quorum has been obtained shall be deemed a confirmation of the decision of the Building Official.

109.7: Effect of Appeal: The appeal shall stay the decision, notice, or order appealed from, unless the Building Official certifies to the Property Services Board after the appeal has been filed that a stay would in the Code Official's opinion cause imminent peril to life or property. In such case, the suspension or revocation shall not be stayed unless a restraining order is issued by a court of competent jurisdiction, and then only if due cause can be conclusively shown.

Section 603.6.1. 1: Duct length: Flexible air ducts shall be limited in length to a maximum of 5'-0" (five feet zero inches).

Section 603.6.2.1: Connector length: Flexible air connectors shall be limited in length to a maximum of 5'-0" (five feet zero inches).

4-9-3: HEATING, VENTILATING, AIR CONDITIONING (HVAC) CONTRACTORS:

(A) **License required:** No person shall engage in the business of heating, ventilating and air conditioning contractor within the City without having first secured a license in the manner provided herein.

(B) **Application for license:** Application for license shall be made to the Community Development Department. All licenses shall be subject to the provisions of this Code, other ordinances of the City and the statutes of the State of Illinois.

(C) **License fee:** The amount of the annual license fee for persons engaged in the business of building contractor shall be established from time to time by action of the City Council.

(D) **Examination required:** No person shall receive such a license until he or she has passed a standardized examination administered and designed by the Building Division of the Department of Community Development. Said examination shall be for the purpose of determining that all licensees are knowledgeable in the business of building, contracting, and life safety components of the Building Code.

(E) Suspension or revocation of license:

(1) If any person shall violate any of the provisions of the Chapter or the code adopted hereby, he shall be liable to be prosecuted against for any fine or penalty imposed thereto and his license may be suspended or revoked by the City Manager.

(2) No such license shall be so revoked or suspended except after a hearing by the City Manager or his or her designee with a three- (3)- business day notice to the licensee affording the licensee an opportunity to appear and defend. The notice shall specify the reason for the contemplated suspension or revocation and shall give the date, time, and room number in the Civic Center of the hearing. Notice shall be sufficient if sent to the address stated on the licensee's application.

(3) If the Building Official certifies to the City Manager that he has reason to believe that immediate suspension of the license is necessary to prevent the threat of immediate harm to the community, the City Manager may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the license suspended for not more than seven (7) days. The City Manager may extend the suspension during the pendency of a hearing upon a written determination that doing so is necessary to prevent the aforesaid harm to the community.

(4) Hearings shall be conducted in accordance with procedures on file with the City Clerk.

(5) The City Manager shall issue his or her decision within three (3) business days after the close of the hearing. In reaching a decision, the City Manager may consider any of the following:

- (a) The nature of the violation.
- (b) The nature and extent of the harm caused by the licensee's action or failure to act.
- (c) The factual situation and circumstances surrounding the violation.
- (e) Whether or not the action or failure to act was willful.
- (f) The record of the licensee with respect to violations.

(6) The City Manager may suspend a license for a period of up to ninety (90) days. A licensee whose license has been revoked shall not be eligible to re-apply for a license until the expiration of one (1) year after the effective date of the revocation.

4-9-4: PENALTY:

Any person who shall violate any provisions of the *2003 International Mechanical Code* adopted hereby, or who shall be found to have failed to comply with any of the requirements thereof, or who shall be found to have changed, moved, or altered any wiring apparatus, fixture, machinery or device in violation of any approved plan or direction of the Assistant Director of the Department of Community Development or of any permit or certificate issued under the provisions of said *2003 International Mechanical Code*, adopted hereby, shall be guilty of an offense, punishable as follows:

- 1) The fine for a first violation is \$75.00 (seventy-five and no/100 dollars).
- 2) The fine for a second violation is \$200.00 (two hundred and no/100 dollars).
- 3) The fine for a third violation is \$375.00 (three hundred seventy-five and no/100 dollars).

(B) Each day a provision of this chapter is found to have been violated constitutes a separate violation subject to the fine schedule set forth in this Section.

(C) The fines provided for herein shall not be construed as limiting the power of a court of competent jurisdiction or an administrative hearing officer to impose other penalties and remedies as provided for by applicable legislation. (Ord. 127-O-00).

4-9-5: SEVERABILITY: It is the intention of the City Council that the provisions of this Chapter and the *2003 International Mechanical Code* adopted hereby are severable and that the invalidity of any Section or part of any Section this Ordinance and the Code adopted hereby shall not affect any other Section or portion of said Ordinance or Code.

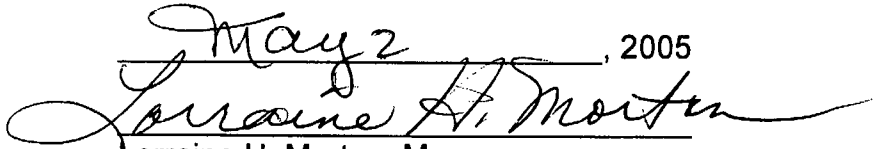
SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: April 12, 2005

Adopted: April 25, 2005

Approved:

May 2, 2005

Lorraine H. Morton, Mayor

Attest:

Mary P. Morris
Mary P. Morris, City Clerk

Approved as to form:

Ellen Byrne
Asst. Corporation Counsel

