

4/5/2006
3/22/2006
3/20/2006
3/17/2006
3/8/2006

139-O-05

AN ORDINANCE

**Amending Title 4 of the City Code to
Enact the Affordable Housing Demolition Tax as Chapter 22**

WHEREAS, the City of Evanston is a home rule unit of government under Article VII of the 1970 Illinois Constitution; and

WHEREAS, Article VII, Section 6a of the 1970 Illinois Constitution confers certain powers upon home rule units, among which are the powers to regulate for the protection of the public health, safety, morals and welfare, and to tax; and

WHEREAS, legislation designed to provide for decent, safe, and sanitary housing for all citizens of the municipality is within the powers of the City as a home rule unit of government; and

WHEREAS, demolition of certain existing structures and subsequent residential development in the City of Evanston have led to a redirection in the diversity of the City's housing stock and affordable housing opportunities, and subsequent redevelopment has in many cases contributed to property value increases that further the difficulty of providing affordable housing in the City; and

WHEREAS, the Housing Commission reported that, in the last decade, the City experienced a decrease in middle-income households which earn between fifty thousand and no/100 dollars (\$50,000.00) and one hundred thousand and no/100 dollars (\$100,000.00) annually, and an increase in both lower- and higher-income households; and

WHEREAS, the demand for mortgages and rents within the means of lower- and moderate-income households has continued to increase; and

WHEREAS, the City's Housing Commission's charge is to provide for the planning, expansion, maintenance, conservation, and rehabilitation of Evanston's housing stock, and to be responsive to needs for change in housing-related matters to promote the maintenance of a diverse residential environment, and to conserve property values within the community; and

WHEREAS, in 2002, the Housing Commission began exploring means to encourage and accomplish private sector investments and development activity in addressing the housing challenge; and

WHEREAS, in October, 2002, the Commission sought and obtained City Council approval to establish an Inclusionary Housing Task Force to study the gap between the demand and supply of affordable housing in the City; and

WHEREAS, the Task Force studied methods to encourage private sector investment and development activity to provide for affordable housing opportunities in Evanston; and

WHEREAS, in February, 2003, the Inclusionary Housing Task Force was convened, members of which were Planning and Development Committee Members, Alderman Joseph Kent, Alderman Steven Bernstein, Members of the Human Relations Commission, Members of the Plan Commission, private sector developers, a local non-profit developer, and representatives of North Suburban Housing Partners; and

WHEREAS, this Task Force met eight times through November, 2003, the last two times with the Housing Commission; and

WHEREAS, after reviewing the discussions and recommendations of the Task Force, the Housing Commission made recommendations to the Planning and Development Committee of the City Council in April, 2004; and

WHEREAS, a tax imposed on the demolition of residential properties was proposed as a source of funding for accomplishing the provision of affordable housing in the City; and

WHEREAS, the City Council has determined that an affordable housing demolition tax is appropriate and necessary to promote high-quality affordable housing in order to preserve and maintain the City's cultural and economic diversity; and

WHEREAS, the City Council has found and determined it necessary and appropriate for the City to dedicate the revenue received from the demolition tax to the provision of affordable housing in the City; and

WHEREAS, the City Council has determined that the amendments in the form set forth in provisions of this Ordinance would help achieve the provision of high-quality affordable housing, and be in the best interest of the City, and promote and enhance stability in all areas of the City; and

WHEREAS, affordable housing and neighborhood stability are in the best interests of all citizens of Evanston; and

WHEREAS, the Ordinance was considered by the Planning and Development Committee of the City Council at its December 12, 2005 meeting, introduced at the City Council meeting on that date, and referred back to the Committee for its January 9, 2006 meeting, where it was held on that date and held again at the Committee's January 23, 2006 meeting; and

WHEREAS, on January 31, 2006, at a special meeting, the Planning and Development Committee voted to recommend that City Council repeal the Affordable Housing Demolition Tax enacted by Ordinance 117-O-05; and

WHEREAS, the City Council held the Ordinance at its February 13, 2006 meeting and, at its February 27, 2006 meeting, referred it back to the Planning and Development Committee for modifications; and

WHEREAS, the Planning and Development Committee considered modifications to the Ordinance at its March 13, 2006 meeting, held the Ordinance at its March 27, 2006 meeting, and, at its April 4, 2006 special meeting, recommended City Council approval of amendments to said

Affordable Housing Demolition Tax Ordinance enacted by Ordinance 117-O-05; and

WHEREAS, the City Council at its March 13, 2006, March 27, 2006, and April 11, 2006 meetings, considered and adopted the record and recommendation of the Planning and Development Committee, and

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

SECTION 1: The foregoing recitals are incorporated herein as facts and made a part hereof.

SECTION 2: That Title 4, Chapter 20 of the City Code, "Vacant Buildings Ordinance", is hereby reaffirmed. The Affordable Housing Demolition Tax enacted by Ordinance 117-0-05 is hereby renumbered as Title 4, Chapter 22, "Affordable Housing Demolition Tax", to read as follows:

4-22-1: PURPOSE: The purpose of this Chapter is to provide a source of funding for the creation, maintenance, and improvement of safe and decent affordable housing in the City of Evanston in order to enhance preservation and maintenance of the City's cultural and economic diversity.

4-22-2: DEFINITIONS:

For the purposes of administering this Chapter:

AFFORDABLE HOUSING, OWNER-OCCUPIED: Decent, safe, sanitary housing that is affordable to "Relevant Households" as defined below. The cost of the mortgage payment and relevant expenses (a calculation of property taxes, homeowner's insurance, and, when applicable, condominium or homeowner association fees) of owner-occupied dwelling units shall not exceed thirty-three percent (33%) of the Relevant Household's gross annual household income (the total income of all adults over eighteen years of age in the household).

AFFORDABLE HOUSING, RENTAL: Decent, safe, sanitary housing that is affordable to "Relevant Households" as defined below. The cost (including a utility allotment and adjustment for household size) of rental dwelling units shall not exceed thirty percent (30%) of the Relevant Household's gross annual household income (the total income of all adults over eighteen years of age in said household).

AFFORDABLE HOUSING DEMOLITION TAX FUND: The fund established by City Council which can only receive and expend monies dedicated to the creation, preservation, maintenance, and improvement of affordable housing for households whose income is eighty percent (80%) or less of Area Median Income with their affordable housing needs.

APPLICANT: Any individual who applies for a building demolition permit under the Evanston City Code.

AREA MEDIAN INCOME: The median income level for the Chicago Primary Metropolitan Statistical Area, as established and defined in the annual schedule published by the Secretary of the United States Department of Housing and Urban Development and adjusted for household size.

DEMOLITION: The removal or destruction of a structure or building in whole or in part to the extent of fifty percent (50%) or more of such structure or building as it existed prior to the commencement of such act or process.

DEMOLITION STRUCTURE: The building or structure to be demolished.

DIRECTOR: The Director of the Evanston Community Development Department.

DWELLING UNIT: A room or group of contiguous rooms that include facilities used or intended to be used for living, sleeping, cooking and eating, and that are arranged, designed, or intended for use exclusively as living quarters.

RELEVANT HOUSEHOLD: A low or moderate income household whose total income does not exceed the relevant percent of median income for the Chicago Primary Metropolitan Statistical Area Chicago area, as established and defined in the annual schedule published by the Secretary of Housing and Urban Development, and adjusted for household size. A low income household has income that does not exceed eighty percent (80%) of HUD Area Median Income. A moderate income household has income that does not exceed one hundred percent (100%) of the HUD Area Median Income.

REPLACEMENT STRUCTURE: Any building or structure replacing the Demolition Structure.

RESIDENTIAL STRUCTURE: Any building or structure containing dwelling units.

RESIDENTIAL STRUCTURE, SINGLE-FAMILY ATTACHED (GROUP, ROW, OR TOWN HOUSES): Three (3) or more dwelling units joined side by side.

RESIDENTIAL STRUCTURE, SINGLE-FAMILY DETACHED: A residential building containing not more than one (1) dwelling unit entirely surrounded by open space on the same lot.

RESIDENTIAL STRUCTURE, MULTI-FAMILY: A detached residential building containing three (3) or more dwelling units, including what is commonly known as an apartment building, but not including group, row, or town houses, excluding a hotel, motel, boarding house, rooming house, dormitory, nursing home, mobile home, institution, or retirement home or community.

RESIDENTIAL STRUCTURE, SINGLE-FAMILY ATTACHED, TWO-FAMILY: A residential building containing not more than two (2) dwelling units entirely surrounded by open space on the same lot.

4-22-3: AFFORDABLE HOUSING DEMOLITION TAX:

(A) Tax Imposed and Dedicated. Any person granted a permit under the Evanston City Code for demolition of a Residential Structure shall pay an affordable housing demolition tax of: (a) ten thousand and no/100 dollars (\$10,000.00) for the demolition of any Single-Family Detached Residential Structure, or (b) for the demolition of any Multi-Family, Single-Family Attached, or Two-Family Residential Structure, either ten thousand and no/100 dollars (\$10,000.00) or three thousand and no/100 dollars (\$3,000.00) for each unit in the structure, whichever amount is more. The tax imposed pursuant to this Subsection shall be in addition to the demolition permit fee established from time to time by the City Council and all other applicable fees and charges. Payment of the tax, unless deferred as provided in Section 4-22-4, shall be due upon issuance of a demolition permit by the Department, and is a condition to the validity of the permit. The City shall have a lien against the property which was the subject of the demolition permit until applicable tax obligations imposed by this Chapter are satisfied. The funds received by the City for the amount imposed pursuant to this Subsection shall be dedicated to achievement of the affordable housing goals and objectives as set forth in Section 4-22-1 of this Chapter. The demolition tax funds received pursuant to the tax imposed by this Chapter shall be allocated as follows:

(1) Fifty percent (50%) shall be transferred to the Affordable Housing Demolition Tax Fund for use exclusively in assisting households whose income is eighty percent (80%) or less of Area Median income with their affordable housing needs; and

(2) Fifty percent (50%) shall be transferred to the Inclusionary Housing Trust Fund for use in the creation, preservation, maintenance, and improvement of affordable housing.

(B) Specific Applicability Rules. Notwithstanding the general requirement set forth in Subsection 4-22-2(A), the tax shall not apply under the following circumstances. This Subsection, however, shall not affect an applicant's obligation to pay the demolition permit fee:

(1) If the applicant and the City enter into an agreement for the provision of "Affordable Housing" as defined in Section 4-22-2 in conjunction with the demolition that would otherwise be the subject of Subsection 4-22-3(A). Any such agreement shall require prior City Council approval and shall specifically set forth the applicability of this Subsection.

(2) If the Director determines, pursuant to regulations enacted by the City Council, that the building or structure replacing the building or structure that is the subject of the demolition permit constitutes "Affordable Housing" as defined in Section 4-22-2.

(3) If the Director or any other City Department Head, or their respective designees, orders a demolition for any reason, including but not limited to nuisance, public safety, or fire hazard, this tax shall not apply, regardless of whether the demolition work is performed by a public or private entity.

(C) General Applicability. Imposition of the tax provided for by Subsection 4-22-3(A) shall not apply to any demolition for which a perfected application for the demolition permit was on file with the City on or before (the effective date of this Ordinance).

4-22-4: TAX DEFERRAL OPTION:

(A) Application for deferral. A person who has been the record title holder or beneficiary of a land trust (collectively, "record title holder") and occupant of a residential structure for three (3) consecutive years, and who files or causes to be filed an application for a demolition permit for that structure, may opt for deferral of the tax, as provided in this Subsection 4-22-4(A). In the event the demolition permit is for a multi-unit structure, the person may only defer that

portion of the demolition tax attributable to his own dwelling unit. The demolition permit fee must be paid at the time of application. The person shall make application for deferral of the tax to the Director on a form provided for that purpose and available from the Building Permit Desk. To qualify for the deferral, the person shall provide documentation to establish that all real estate taxes on the subject property have been paid in full as of the date of application for the permit; that any and all City liens and judgments recorded on the subject property have been satisfied; and that the person has been the record title holder and occupant of the subject structure for three (3) consecutive years prior to the date of application for the permit. Documentation the Director may require to establish the person's qualification for the tax deferral option may include, but shall not be limited to, income tax records and proof of voter registration. If the Director determines that the person qualifies for the deferral option, he shall cause a lien to be recorded against the property with the Cook County Recorder in the amount of the tax to be deferred, to which shall be added the applicable recordation fee. Except as provided in Section 4-22-4(B), the lien shall not bear interest. The Director may, upon written request of the person, subordinate the lien to any mortgage the person may have or seek on the property. Among the factors the Director may consider in determining whether or not to grant the subordination request is whether the value of the property is adequate to assure payment of the City's lien, and that all real estate taxes have been paid.

(B) Release of lien.

(1) A person who exercised the tax deferral option provided for in Section 4-22-4(A) and who has been the record title holder and occupant for three (3) consecutive years after issuance of a Final Certificate of Occupancy for the replacement structure may apply for release of the lien by making application therefor to the Director on a form provided for that purpose and available from the Building Permit Desk. Documentation the Director may require to establish the person's qualification for the release of lien may include, but shall not be limited to, income tax records and proof of voter registration for the years in question. If the Director determines that the person qualifies for the release, he shall provide the person with a recordable release of lien no later than thirty (30) days after he determines that the person qualifies for the release.

(2) A person who exercised the tax deferral option provided for in Section 4-22-4(A) who sells the subject property prior to the expiration of the three (3) -consecutive-year period after issuance of the Final Certificate of Occupancy shall, as a condition to the City's release of the lien, pay the tax due, to which shall be added interest at the annualized Money Market Index rate published by the Government Finance Officers Association.

4-22-5: STABILITY INCENTIVE, TAX PAID AT PERMIT ISSUANCE:

When the tax was paid at the time of permit issuance as provided for in Subsection 4-22-3(A), a person who has been the record title owner and occupant of a residential property demolished subsequent to the effective date of this Chapter ("pre-existing structure") for all of the three years immediately preceding the date of the application for demolition ("pre-permit period"), and remains the record title holder and occupant of the property for three consecutive years beginning immediately after the date on which the certificate of occupancy for the new residential structure is issued, may qualify for a monetary stability incentive in an amount equal to the demolition tax paid on the issuance of the permit for demolition of the pre-existing structure, provided, however, that only persons whose real estate taxes on the property are paid in full at the time of application for stability incentive may apply for the incentive.

Application for the stability incentive payment shall be made to the Director on a form provided for that purpose and available from the Building Permit Desk. The person must provide the Director of Community Development with such documentation as he may require to establish that the owner qualifies for the payment under the requirements of this Subsection. Such documentation may include, but is not limited to, income tax returns and proof of voter registration for the years in question. The City shall pay qualifying persons an amount equal to the demolition tax, if any, imposed pursuant to this Chapter on the issuance of the permit for the pre-existing structure, less the amount of any liens recorded by the City against the subject property, including, but not limited to, liens for judgments entered in cases adjudicated in the City's Division of Administrative Hearings, no later than thirty (30) days after the Director of Community Development determines that an owner qualifies for the stability incentive.

4-22-6: SEVERABILITY: The provisions, Sections, and Subsections of this Chapter shall be deemed separable, and the invalidity of any portion of this Chapter shall not affect the validity of the remainder.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

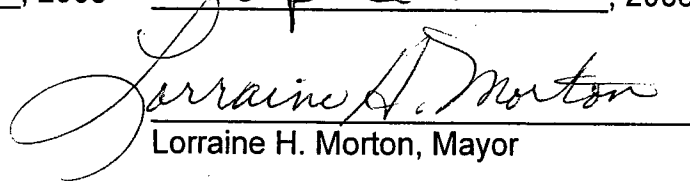
SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: December 12, 2005

Approved:

Adopted: April 11, 2006

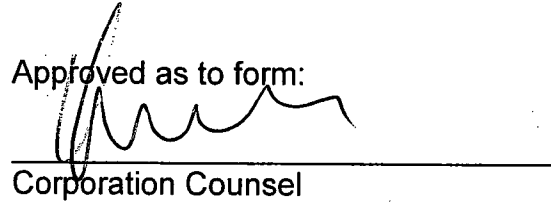
April 13, 2006


Lorraine H. Morton, Mayor

Attest:


Mary P. Morris, City Clerk

Approved as to form:


Corporation Counsel

