

5/16/2007
5/4/2007
4/23/2007

40-O-07

AN ORDINANCE

**Renaming and Amending Title 4, Chapter 22,
and Related Sections of the Evanston City Code,
and Consolidating the Mayor's Special Housing Fund
With the Newly-Renamed Affordable Housing Fund**

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

WHEREAS, the Illinois Municipal Code provides in 65 ILCS 5/11-13-1(11) that the creation and preservation of affordable housing is a proper exercise of the zoning powers of all Illinois municipalities; and

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

WHEREAS, Goal Two of the City of Evanston's Strategic Plan, adopted by the City Council on March 27, 2006, is to "create policies and programs that result in a well-maintained, diverse housing stock throughout the City of Evanston;" and

WHEREAS, the City Council created the Affordable Housing Fund, defined in Section 4-22-2 of the Evanston City Code, 1979, as amended, as:

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;

and

WHEREAS, the City Council has provided significant revenue for the Affordable Housing Tax Fund by enacting City Code Sections 4-22-3 (A) and 5-7-8 (B), which, respectively, designate it as the recipient of Affordable Housing Demolition Taxes and payments in lieu of constructing affordable dwelling units required by the Inclusionary Housing Ordinance; and

WHEREAS, the Mayor's Special Housing Fund has, since its creation in 1986, distributed money to create, maintain and improve affordable housing in Evanston; and

WHEREAS, from the years 1994 through 2006, the Mayor's Special Housing Fund distributed no less than \$1,191,337 for the creation, maintenance and improvement of no less than 142 units of affordable housing in Evanston; and

WHEREAS, the City Council desires that the City maintain a single fund dedicated to the creation, preservation, maintenance, and improvement of affordable housing, namely the Affordable Housing Tax Fund; and

WHEREAS, the City Council desires that the Affordable Housing Tax Fund combine its significant revenue with the Mayor's Special Housing Fund's ability to create, preserve, maintain, and improve affordable housing for households earning both less and more than eighty percent (80%) of area median income; and

WHEREAS, the City Council believes that the inclusion of the word "Tax" in the title of the Affordable Housing Tax Fund may lead people to misunderstand or misconstrue the purposes of the Fund,

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

SECTION 1: That Title 4, Chapter 22, of the Evanston City Code, 1979, as amended, "Affordable Housing Demolition Tax and Affordable Housing Tax Fund," be renamed "Affordable Housing Demolition Tax and Affordable Housing Fund."

SECTION 2: That Section 4-22-2, of the Evanston City Code, 1979, as amended, be and hereby is further amended to read as follows:

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 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 one hundred percent (100%) or less of Area Median Income, with no less than sixty percent (60%) of all monies reserved for households that earn less than eighty percent (80%) of Area Median Income. The City Manager or his/her designee may implement programs including, but not limited to: down payment and/or rental assistance; building rehabilitation and/or construction loans; property acquisition and disposition; and grants to non-profit organizations that serve households that earn less than one hundred percent (100%) of Area Median Income. Said programs shall be administered in accord with guidelines generated by the Evanston Housing Commission, reviewed by the Planning and Development Committee of the City Council, and approved by the City Council.

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 greater than eighty percent (80%) of HUD Area Median Income and 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.

SECTION 3: That Section 4-22-3 (A), of the Evanston City Code, 1979, as amended, be and hereby is further amended to read as follows:

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 deposited directly into the Affordable Housing Fund.

SECTION 4: That Section 5-7-8, of the Evanston City Code, 1979, as amended, be and hereby is further amended to read as follows:

5-7-8: CASH PAYMENT *IN LIEU* OF PROVIDING AFFORDABLE DWELLING UNITS:

FEE PAYMENT: As of right, an Applicant may pay a fee *in lieu* of building each Affordable Dwelling Unit required by Section 5-7-4 for the Covered Development.

- (A) The fee *in lieu* per Affordable Dwelling Unit shall be determined and approved by the City Council. The fee *in lieu* amount per Affordable Dwelling Unit shall be forty thousand dollars (\$40,000.00) from March 26, 2007 through April 1, 2008. Thereafter, the fee *in lieu* is subject to review and revision by the City Council at least annually by April 1.
- (B) All cash payments received pursuant to this Chapter shall be deposited directly into the Affordable Housing Fund.
- (C) Unless otherwise pre-empted by law, any fee *in lieu* shall be paid prior to the issuance of a temporary certificate of occupancy for any dwelling unit in the Covered Development.

SECTION 5: That Section 5-7-11 (E), of the Evanston City Code, 1979, as amended, be and hereby is further amended to read as follows:

(E) **FIRST SALE AFTER AFFORDABILITY PERIOD ENDS:** This Section 5-7-11 (E) shall apply in the event an affordability period in perpetuity is unlawful or becomes unlawful. Upon the first sale of an Affordable Dwelling Unit after the Affordability Period ends, the seller shall pay to the City out of the sale proceeds a percentage of the difference between the actual sales price and the current affordable resale price as determined pursuant to Subsection 5-7-11(D). Such sums shall be deposited into the Affordable Housing Fund. The percentage is based upon the number of years the seller owned and occupied the Unit, as follows:

Years of Ownership	Share to Affordable Housing Fund
(a) 11 to 15 years	50%
(b) 6 to 10 years	60%
(c) 1 to 5 years	70%

(2) The Director shall determine whether the price and terms of a resale covered by the preceding paragraph meet the requirements of this Chapter. Upon a finding of compliance, the Director shall terminate the affordable housing controls and execute a recordable release of all applicable mortgages and restrictions.

(3) If an Affordable Dwelling Unit is sold through a foreclosure or other court-ordered sale, the Affordable Restrictions are extinguished, but any remaining net profit shall be returned to the Department and deposited into the Affordable Housing Fund.

SECTION 6: That Section 5-7-15, of the Evanston City Code, 1979, as amended, be and hereby is further amended to read as follows:

5-7-15: ADMINISTRATION: In order to ensure compliance with the provisions of this ordinance, the City may utilize a maximum of fifteen percent (15%) each year of funds from the Affordable Housing Fund for administration.

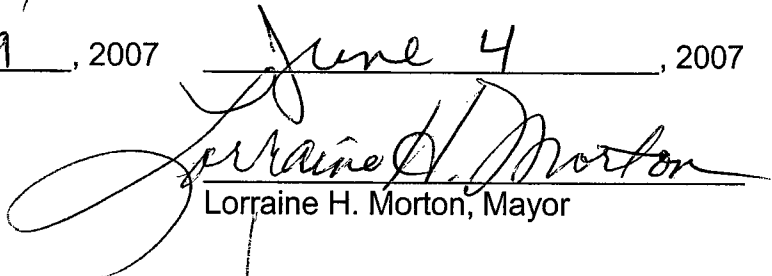
SECTION 7: That the City Manager shall direct staff to transfer the entire balance of the Mayor's Special Housing Fund into the Affordable Housing Fund as soon as may be practicable.

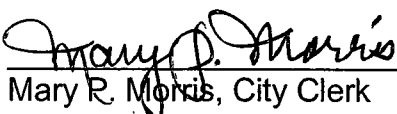
SECTION 8: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

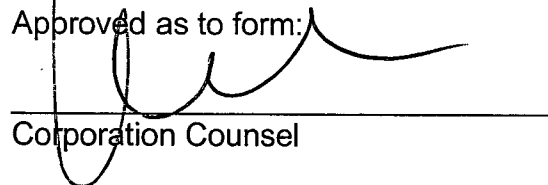
SECTION 9: If any provision of this Ordinance 40-O-07 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance 40-O-07 that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION 10: 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: May 14, 2007 Approved:
Adopted: May 29, 2007 June 4, 2007


Lorraine H. Morton, Mayor

Attest:

Mary R. Morris, City Clerk

Approved as to form:

Corporation Counsel