

38-O-19

AN ORDINANCE

Increasing the Demolition Tax Contained in Title 4, Chapter 18 in Order to Further Affordable Housing Efforts

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

SECTION 1: Subsection 4-18-1 of the Evanston City Code of 2012, as amended (the "City Code"), is hereby further amended to read as follows:

4-18-3. - TAX IMPOSED.

- (A) Amount Of Tax. Any person granted a permit under this code for demolition of a residential structure shall pay an affordable housing demolition tax of: 1) fifteen thousand dollars (\$15,000.00) for the demolition of any single-family detached residential structure, or 2) for the demolition of any multi-family, single-family attached, or two-family residential structure, either fifteen thousand dollars (\$15,000.00) or five thousand dollars (\$5,000.00) for each unit in the structure, whichever amount is more. The demolition tax will be adjusted annually on January 1st based on the Consumer Price Index. 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 of this Chapter, 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 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.
- (B) Specific Applicability Rules. Notwithstanding the general requirement set forth in Subsection (A) of this Section, 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 2 of this Chapter in conjunction with the demolition that would otherwise be the subject of Subsection (A) of this Section. 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 2 of this Chapter.
 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 (A) of this section 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 hereof.

4-18-4. - TAX DEFERRAL OPTION.

- (A) 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 4-18-4(A) or (B). 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/her 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/she 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 4-18-4(C), 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 ensure payment of the City's lien, and that all real estate taxes have been paid.

- (B) Deferral of the Tax in the case that the subject property is no longer a buildable parcel. Any applicant who applies for a demolition permit and seeks to defer the demolition tax by reason that the lot/parcel in question is no longer buildable under the City's ordinance may apply for a deferral of the tax. Evidence of such change in

property characteristics must be furnished to the Director in writing and the Director shall determine if the applicant qualifies for this deferral option. All requirements for the application for the deferral and the release of lien as provided for in this Section 4-18-4 of this chapter shall apply.

(C) Release of lien.

- (1) A person who exercised the tax deferral option provided for in Section 4-18-4(A), (B), or (C) 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/she shall provide the person with a recordable release of lien no later than thirty (30) days after he/she determines that the person qualifies for the release.
- (2) A person who exercised the tax deferral option provided for in Section 4-18-4(A), (B) or (C) 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.

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

SECTION 3: If any provision of this ordinance 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 that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 4: Ordinance 38-O-19 shall be in full force and effect after its passage and approval.

SECTION 5: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: April 29th, 2019

Adopted: May 19th, 2019

Approved:

May 29, 2019

Stephen H. Hagerty
Stephen H. Hagerty, Mayor

Attest:


Devon Reid, City Clerk

Approved as to form:

Michelle L. Masoncup
Michelle L. Masoncup, Corporation
Counsel