

DEMOLITION OF DWELLINGS

Sec. 170.040 Demolition of Dwellings.

From and after January 1, 1998, it shall be unlawful to cause the demolition of any residential building located in the R1 Country Estate Residential District, R2 Country House Residential District, R3 Low Density Residential District, R4 Low-to-Moderate Density Residential District, R5 & R5A Moderate Density Residential District, R6 Moderate Density Residential District, R7 Single- and two-family Residential District, RM1 Medium-to-High Density Residential District, and RM2 High Density Residential District (as those Districts are set forth and defined in Chapter 150 of "Highland Park Code of 1968," as amended) without first complying with the requirements of this Section. (Ord. 70-01, J. 27, p. 333-391, passed 11/26/01)

(A) **Permit Required — Application.** Prior to undertaking any work in furtherance of the demolition of any "regulated structure" (as defined in Section 24.005 of this Code), the person responsible for undertaking such work shall file an application for a demolition permit in duplicate with the Department of Community Development (hereinafter referred to as "Department") and pay the proper fee therefor, all in accord with the requirements of the applicable provisions of "The Highland Park Code of 1968," as amended (hereinafter referred to as "Code").

(B) **Notice.** Within five (5) days of the filing of an application for a demolition permit, the Department shall cause a sign to be erected upon the property whereon such regulated structure is located. Such sign shall be a minimum of 24 inches by 24 inches in size, having letters with a minimum stroke width of 3/8 of an inch and a minimum height of 2-1/2 inches and contain the following information:

(1) The fact that an application for a demolition permit has been filed with the City, with direction to interested members of the general public to call the office of the Zoning Administrator for further information as to the date, time, and place where the Commission will hold a public meeting during which it will undertake preliminary review of the application for demolition of such regulated structure, and;

(2) The telephone number of the Zoning Administrator.

(C) **Preliminary Review.** Upon receipt of an application for a demolition permit, the Department shall forward a copy of the application to the Historic Preservation Commission (the "Commission") and thereafter both the Department and the Commission shall undertake and complete within thirty (30) days a preliminary review of such application in an effort to ascertain whether the regulated structure proposed to be demolished has landmark or historical significance pursuant to the criteria set forth in Chapter 24 of this Code. Following such review:

(1) In the event the Department and the Commission find such regulated structure has no landmark or historical significance, within five (5) days of such finding, the Department shall cause a demolition permit to be issued for the razing of such regulated structure; or

(2) In the event the Department and the Commission find such regulated structure has landmark or historical significance, a demolition permit shall not be issued by the Department. The affirmative report of the Department and the Commission shall be deemed a nomination of such regulated structure to be designated a Landmark or a contributing regulated structure as required by Section 24.025 of the Code.

(D) **Formal Review By the Historic Preservation Commission.** Upon receipt of a preliminary report from the Department and the Commission stating that a regulated structure for which a demolition permit has been applied for is eligible for designation as a Landmark or contributing regulated structure, the Chairman of the Commission shall call a special meeting thereof to be held at the earliest possible date, in compliance with all applicable laws and ordinances, in order to make a preliminary determination as to whether such regulated structure meets one or more of the criteria set forth for designation of such building as a Landmark or contributing regulated structure as set forth in Subsections 24.025(C) and 24.025(D) of the Code.

(1) In making its preliminary determination, the Commission shall follow the procedures set forth in Section 24.025 of this Code.

(a) In the event the Commission determines that such regulated structure does not meet the criteria to enable it to be designated as a Landmark or contributing regulated structure, the Chairman of the Commission shall so notify the Department, which shall then issue a demolition permit for such regulated structure forthwith.

(b) In the event the Commission determines that such regulated structure does meet the criteria to enable it to be designated as a Landmark or contributing regulated structure, the Commission shall follow the procedure set forth in Section 24.025 of the Code, and thereafter, the owner shall have the time allotted in said Section to approve or reject the nomination.

(2) Notwithstanding the foregoing, in the event a period of 180 days has elapsed following the filing of an application for a demolition permit with the Department in accord with Subsection (A) of this Section and payment of the proper fee therefor, the Department shall issue the demolition permit for which application was made unless the owner of record has given written approval of the nomination for designation as a Landmark or contributing regulated structure within such 180-day period. If the Commission has adopted a resolution pursuant to Subparagraph 24.025(J)(4)(b), determining that the proposed Landmark or contributing regulated structure met three or more of the criteria set forth in Subsection 24.025(C) of the Code, then in the event a period of 365 days has elapsed following the filing of an application for a demolition permit with the Department in accord with Subsection (A) of this Section and payment of the proper fee therefor, the Department shall issue the demolition permit for which application was made unless the owner of record has given written approval of the nomination for designation as a Landmark or contributing regulated structure within such 365 day period. **(Ord. 17-03, J. 29, p. 77-79, passed 2/10/03)**

(3) Upon a showing by the owner of record that a bonafide, reasonable and unsuccessful effort has been made to sell the building and that further time will not

reasonably be expected to result in a sale, the Commission may issue the demolition permit for which the application was made prior to the expiration of the applicable 180-day period or one year period specified in Paragraph (2) of this Subsection. (Ord. 17-03, J. 29, p. 77-79, passed 2/10/03)

(E) **Definitions.** For purposes of this Section 170.040, the meanings of words and phrases used in this Section 170.040 shall have those attributed to them in Section 24.005 of the Code; except that “demolition” shall mean any act or process within the control of the owner of any building or structure that results in the removal or destruction of the structure or building in whole or in part to the extent of 50 percent or more of the structure or building as existed prior to the commencement of such act or process. (Ord. 34-02, J. 28, p. 266-279, passed 5/28/02)

(F) **Penalty.** Any person found by a court of competent jurisdiction to have violated any provision of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 or more than \$5,000. In lieu of these monetary penalties the following specific penalties shall apply, if applicable:

(1) For any regulated structure classified by the Commission as not satisfying the designation criteria set forth in Subsections 24.025(C) and (D) of this Code, the person found to have demolished such regulated structure in violation of the provisions of this Section shall be subject to a fine of 10 percent of the fair market value of the cost of replacement of such regulated structure.

(2) For any regulated structure classified by the Commission as satisfying the designation criteria set forth in Subsections 24.025(C) and (D) of this Code, the person found to have demolished such regulated structure in violation of the provisions of this Section shall be subject to a fine of 90 percent of the fair market value of the cost of replacement of such regulated structure. (Ord. 2-98, J. 24, p. 451-454, passed 1/12/98; Ord. 48-00, J. 26, p. 181-206, passed 8/14/00)

(G) **Affordable Housing Demolition Tax.**

(1) **Tax Imposed and Dedicated.** Any person granted a demolition permit under this Section for a residential structure (as defined in Chapter 150 of this Code) shall pay an affordable housing demolition tax at the rate set forth in the Annual Fee Resolution for the demolition of any single family residential structure (as defined in Chapter 150 of this Code), or (b) for the demolition of any multiple-family residential structure (as defined in Chapter 150 of this Code) either the rate set forth in the Annual Fee Resolution or the rate set forth in the Annual Fee Resolution 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 set forth in Section 170.003(C)(10)-12 of this Code and all other applicable fees and charges. Payment of the affordable housing demolition tax shall be due upon issuance of a demolition permit by the Department. The funds received by the City for the amount imposed pursuant to this Subsection shall be dedicated and transferred to the “Housing Trust Fund” established and operating pursuant to Section 33.1133 of the City Code. (Ord. 35-03, J. 29, p. 134, passed 5/27/03)

(2) **Special Applicability Rules.** Notwithstanding the general requirement set forth in Paragraph (1) of this Subsection, the affordable housing demolition tax shall not apply under the following circumstances upon filing of an application on a form provided and prepared by the City; provided however, that this Paragraph 170.040(G)(2) shall not affect an applicant's obligation to pay the demolition permit fee set forth in Section 170.003(C)(10)-(12) of this Code.

(a) If the applicant and the Housing Commission enter into an agreement for the provision of "Affordable Housing" (as defined in Section 33.1133 of this Code), by the applicant in conjunction with the demolition that would otherwise be the subject of the affordable housing demolition tax. Any such agreement shall specifically set forth the applicability of this Subparagraph with regard to the affordable housing demolition tax otherwise required under this Subsection. (Ord. 10-03, J. 29, p. 034-037, passed 1/27/03)

(b) If the applicant establishes, through a professionally prepared appraisal or other reliable evidence, to the satisfaction of the Director of the Department of Community Development, that the building or structure replacing the building or structure that is the subject of the demolition permit constitutes Affordable Housing under Section 33.1133 of this Code.

(c) If the applicant has been the record title owner and occupant of the property on which the demolition is proposed for all of the five years immediately preceding the date of the application ("pre-permit period"), and remains the record title owner and occupant of the property at all times after the pre-permit period until the date that is five years immediately after the date on which the certificate of occupancy for the new structure is issued ("post-permit period"). To qualify under this Subparagraph, the applicant shall submit, in addition to other required application materials, title documents establishing the applicant's ownership during the entire pre-permit period, as well as a sworn statement of the applicant's intention to retain ownership and occupancy of the property for the entire post-permit period. As a pre-condition to the applicability of this Subparagraph and to the issuance of a demolition permit and certificate of occupancy, the applicant shall provide, for recordation by the City against the property, such covenants, on forms prepared and provided by the City, that will run with and bind the property. The covenant will require the payment of the full amount of the affordable housing demolition tax, including 5 percent per annum interest from the date the permit was issued, if the applicant transfers ownership of the property, or is no longer an occupant on the property, at any time during the post-permit period. No transfer stamps or other City approvals will be issued in relation to any transfer of the property during the post-permit period unless and until the affordable housing demolition tax, including the required interest, has first been paid in full to the City. (Ord. 39-02, J. 28, p. 297-299, passed 6/24/02, Ord. 10-03, J. 29, p. 034-037, passed 1/27/03)

(d) If the applicant establishes, to the satisfaction of the Director of the Department of Community Development, (i) that the demolition subject to the demolition permit is necessary due to the medical condition of the owner of the building or structure to be demolished ("Demolition Building"); and (ii) that the building or structure replacing the Demolition Building ("Replacement Building") shall be *occupied* by the *owner* and that said owner *qualifies* as a Low-Income or Moderate-Income Household under the

definitions set forth in Section 33.1133(A) of this Ordinance, as evidenced by such documents and information, including without limitation tax returns and pay stubs, as the Director may reasonably require. For purposes of this Subparagraph, in order to establish that a demolition is “necessary due to the medical condition of the owner of the building or structure,” the applicant must, at a minimum, provide the following:

(i) A sworn statement by a medical doctor licensed to practice medicine in Illinois, describing the medical condition at issue and verifying that the proposed demolition and construction of the Replacement Building is necessary as a direct result of the medical condition of the owner.

(ii) Official medical records describing the medical condition that requires the demolition of the Demolition Building and construction of the Replacement Building.

(iii) Such other relevant information as may be provided by the applicant, or requested by the City, that is necessary to establish the requirements of this Subparagraph (Ord. 10-03, J. 29, p. 034-037, passed 1/27/03)

(e) If the applicant establishes to the satisfaction of the Director of the Department of Community Development that structural measures must be undertaken that would typically qualify as a “demolition” pursuant to Subsection 170.040(E) of this Code due to extensive damage to the building or structure caused by Force Majeure. For purposes of this Subparagraph, Force Majeure shall mean acts of God, or other factors beyond the owner’s reasonable control and reasonable ability to remedy; provided, however, that for purposes of this Subparagraph Force Majeure shall not include damage caused by the owner, an agent or employee of the owner, or a third party in privity with the owner. (Ord. 47-03, J. 29, p. 161-162, passed 6/28/03)

(3) General Applicability. Imposition of the tax imposed pursuant to this Subsection shall not apply to any demolition for which a complete and proper application for the demolition permit was on file with the City on or before May 29, 2002, being the effective date of this Subsection. (Ord. 34-02, J. 28, p. 266-279, passed 5/28/02)