

## DEMOLITION OF DWELLINGS

### Sec. 170.040 Demolition of Dwellings.

(A) **Applicability.** It shall be unlawful to cause the Demolition of any residential building located in the R1, R2, R3, R4, R5, R5A, R6, R7, RM1, and RM2 Residential Districts under Chapter 150 of this Code (collectively, “Covered Residential Districts”) without first complying with the requirements of this Section. (Ord. 70-01, J. 27, p. 333-391, passed 11/26/01; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(B) **Definitions.** For purposes of this Section, capitalized words and phrases shall be defined as set forth in this Section or in Section 24.005 of Chapter 24 of this Code (“Historic Preservation Regulations”). A “Significant Demolition Application” shall be any application for a permit for a Demolition within a Covered Residential District. (Ord. 34-02, J. 28, p. 266-279, passed 5/28/02; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(C) **Historic Preservation Commission.** All Significant Demolition Applications shall be submitted to the Historic Preservation Commission within 10 days after the date on which the completed permit application has been submitted to the City (“Application Completion Date”); provided, however, that the City shall not be required to submit a Significant Demolition Application to the Historic Preservation Commission, and no Historic Preservation Commission review conducted pursuant to this Section shall be required, if (1) the Significant Demolition Application is for demolition of a Structure that has been identified in the City of Highland Park Comprehensive Architectural Survey as “non-contributing,” and (2) the Historic Preservation Commission Chairman approves, in advance and in writing, the Significant Demolition Application (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Ord. 46-06, J. 32, p. 244-252, passed 7/10/06**)

(D) **Application Completion; Utilities.** No Significant Demolition Application shall be deemed complete unless and until the Application meets the requirements of the Building Code including, without limitation, the payment of all applicable fees and the submission of any site management plans and other required submittals. A Significant Demolition Application may be deemed complete by the code official prior to receipt by the City of disconnection notices from providers of utilities to the structure or building; provided, however, that no permit to demolish or remove a Structure shall be issued until receipt by the City of all required disconnection notices from providers of utilities to the structure or building. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(E) **Historic Preservation Commission Review.**

(1) Within 60 days after the Application Completion Date, the Historic Preservation Commission shall hold a meeting to determine whether the Structure that is the subject of the Application satisfies one or more, or none, of the Landmark designation criteria set forth in Section 24.015 of the Historic Preservation Regulations (“Landmark Standards”). (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) **365-Day Review Period.** If the Historic Preservation Commission determines that the Structure that is the subject of the Significant Demolition Application satisfies three or more of the Landmark Standards, then, subject to a City Council

determination on appeal the determination as provided in this Paragraph 2, the Commission shall have a 365 day review period, commencing on the Application Completion Date, within which to receive applications for Landmark nominations for the Structure. Nomination applications shall be filed pursuant to the procedures contained in the Historic Preservation Regulations. In the event that the Commission makes the determination set forth in this Paragraph 2, then the Applicant shall have the right to appeal the determination to the city Council by filing an appeal in writing with the Office of the City Manager within 15 days after the date on which the Commission makes the determination. On appeal, the City Council review shall be limited to a determination on whether the Commission properly applied the standard for imposing a 365-Day review period set forth in this Paragraph 2. The City Council may determine that (1) the 365-Day review period is appropriate, or (2) a 180-Day review period is appropriate. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Ord. 46-06, J. 32, p. 244-252, passed 7/10/06**)

(3) 180-Day Review Period. If the Historic Preservation Commission determines that the Structure that is the subject of the Significant Demolition Application satisfies one or two of the Landmark Standards, then the Commission shall have a 180-day review period, commencing on the Application Completion Date, within which to receive applications for Landmark nominations for the Structure. Nomination applications shall be filed pursuant to the procedures contained in the Historic Preservation Regulations. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) No Review Period. If the Historic Preservation Commission determines that the Structure that is the subject of the Significant Demolition Application does not satisfy any of the Landmark Standards, then the City shall proceed immediately to process the Application pursuant to all other applicable provisions of this Code. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) Notwithstanding Paragraphs 2 and 3 of this Subsection, the Commission shall terminate its review period at any time in the event it determines that the Structure that is the subject of the Significant Demolition Application does not satisfy any of the Landmark Standards. (Ord. 17-03, J. 29, p. 77-79, passed 2/10/03; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(6) Notwithstanding Paragraphs 2 and 3 of this Subsection, the Commission may terminate its review period at any time in the event that it determines, based upon a showing by the Applicant, that a bona fide, reasonable, and unsuccessful effort has been made to sell the Structure for which a Demolition permit has been sought, and/or that further time will not reasonably be expected to result in a sale or otherwise to result in the avoidance of the necessity to demolish the Structure. (Ord. 17-03, J. 29, p. 77-79, passed 2/10/03; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(7) Notwithstanding Paragraphs 2 and 3 of this Subsection, the Commission may terminate its review period at any time in the event that the Applicant agrees to subject the proposed Demolition to the Commission consultations and standards that govern the issuance of a Certificate of Appropriateness as set forth in Section 24.030 of this Chapter. The Commission's decision pursuant to this Paragraph shall be subject to such terms and conditions as the Commission shall deem reasonable and appropriate. If the Commission determines that the standards and criteria for a Certificate of

Appropriateness, and such other terms and conditions as the Commission may impose, regarding any inadvertent Demolition of a Structure or Regulated Structure, have been satisfied, the penalties for unauthorized Demolition under Subsection (H) of this Section may be reduced or waived in their entirety by the Commission. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(8) Once a Significant Demolition Application has been filed, no other building permits shall be issued for any new or other construction on the Property on which the proposed Demolition will take place, unless the Commission determines that such permit and such new or other construction will not be inconsistent with the purposes and intent of this Chapter, or until the Significant Demolition Application has been authorized under Subsection (F) of this Section. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(F) Permits for Significant Demolitions. Except as provided in Subsection (G) of this Section with regard to public safety emergency permits, a Significant Demolition Application shall not be issued until (i) the latter of (a) the expiration of the period of time for receipt of a Landmark nomination application by the Historic Preservation Commission as set forth in Subsection (D)(2) or (3) (whichever is applicable) of this Section, or (b) the final disposition of a nomination of the Structure pursuant to the Historic Preservation Regulations; or (ii) the Commission, pursuant to Paragraph (D)(4) of this Section, determines that the Structure does not satisfy any of the Landmark Standards, or as otherwise provided under Paragraphs (D)(5), (D)(6), or (D)(7) of this Section. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(G) Emergency Permit: A Demolition permit may be issued by the code official upon the code official's determination that Demolition of the Structure is necessary to eliminate or prevent a threat to public safety. If the code official makes that determination on a Significant Demolition Application, the Application shall not be submitted to the Historic Preservation Commission as otherwise required by this Section and the provisions of Subsection (C) and (E) of this Section shall not apply. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(H) Penalties. Any Person that violates any provision of this Section shall be subject to the following fines, in addition to any other applicable penalties, fines, and punishments as provided in this Code or by law.

(1) For the improper or unauthorized Demolition of any Structure that the Commission determines does not satisfy the designation criteria set forth in Subsection 24.015 of this Code, a fine shall be imposed in the amount of 10 percent of the fair market value of the cost of replacement of that Structure.

(2) For the improper or unauthorized Demolition of any Structure that is a Regulated Structure under the Historic Preservation Regulations, a fine shall be imposed in the amount of 90 percent of the fair market value of the cost of replacement of such Regulated Structure.

(3) If any Structure or Regulated Structure is purposely neglected or damaged in any way during the applicable delay period required pursuant to Subsection (E) of this Section, or at any after a preliminary designation resolution has been adopted

pursuant to Subsection 24.025(B) or Subsection 24.026(B) of the Historic Preservation Regulations, a fine shall be imposed in the amount of 90 percent of the fair market value of the cost of repairing the effects of such neglect or damage to the Structure or Regulated Structure. The Commission shall be authorized to make a determination regarding the neglect and damage based, among other relevant factors, on to the extent to which the International Property Maintenance Code, as adopted by this Code, has been complied with. (Ord. 2-98, J. 24, p. 451-454, passed 1/12/98; Ord. 48-00, J. 26, p. 181-206, passed 8/14/00; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(I) 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 (a) 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), at 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 and to the Street and Bridge Fund of the City, all according to the percentages set forth in the Annual Fee Resolution. (Ord. 35-03, J. 29, p. 134, passed 5/27/03, **Ord. 38-06, J. 32, p. 133-135, passed 4/24/06**)

(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)