

VILLAGE OF BANNOCKBURN

ORDINANCE NO. 2008-55

AN ORDINANCE INSTITUTING A DEMOLITION TAX

Adopted by the
President and Board of Trustees
of
the Village of Bannockburn
this 8th day of December, 2008.

Published in pamphlet form by direction
and authority of the Village of Bannockburn,
Lake County, Illinois
This 8th day of December, 2008.

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AN ORDINANCE INSTITUTING A DEMOLITION TAX

WHEREAS, the Village of Bannockburn is a home rule municipality as defined by Article VII of the Illinois Constitution of 1970; and

WHEREAS, the Illinois Constitution allows a home rule municipality to perform any function pertaining to its government and affairs, including to levy taxes, provided that such local taxes are not imposed on income or earnings or upon occupations; and

WHEREAS, the number of demolitions of existing dwellings has increased in recent years; and

WHEREAS, the permit fees relating to demolitions cover costs for the regulatory programs affecting demolition but do not address other externalities of demolition; and

WHEREAS, demolitions do present many adverse impacts on the Village and its facilities, including interruptions of traffic flows on residential streets, debris within the Village, impacts on the forested character of the community, and unanticipated stress on infrastructure including without limitation roadways and storm water management facilities, which impacts are not otherwise recovered through permit fees; and

WHEREAS, such demolition tax is authorized under the Village's home rule powers pursuant to Article VII, Section 6(a) of the Illinois Constitution, as well as the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.* (particularly Section 11-42-1 of the Illinois Municipal Code, 65 ILCS 5/11-42-1); and

WHEREAS, pursuant to its home rule authority, the Village of Bannockburn intends to institute a demolition tax to address various issues related to demolition activity, such as increased local traffic, debris within the Village and impact on existing infrastructure within the Village; and

WHEREAS, the President and the Board of Trustees of the Village of Bannockburn, being fully advised in the premises, have determined in order to address the externality costs relating to demolition that it is in the best interests of the Village and its residents to impose a tax on the on the activity of demolition, effective December 8, 2008.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BANNOCKBURN, COUNTY OF LAKE, STATE OF ILLINOIS, as follows:

SECTION ONE: Recitals. The foregoing premises are incorporated into this Ordinance as if fully set forth.

SECTION TWO: Demolition Tax Imposed. A tax is hereby imposed upon the activity of demolition of dwellings within the Village. Any person granted a permit for demolition (a “*Demolition Permit*”) as provided in the Village of Bannockburn ordinances for a principal structure as defined by the Village of Bannockburn Zoning Code shall pay a demolition tax for the demolition of any single family dwelling (as defined in the Village’s Zoning Code and Regulations) (a “*Demolition Building*”). The demolition tax shall be at a rate of not less than:

- (a) \$10,000.00 per Demolition Building; or
- (b) such greater amount as may be established from time-to-time in the Village’s annual fee ordinance.

SECTION THREE: Demolition Permit Fee. The tax imposed pursuant to this Ordinance shall be in addition to any Demolition Permit fee or other development-related fee or charge authorized from time-to-time by the Village. Payment of the demolition tax shall be due prior to issuance of a Demolition Permit by the Village. The funds received by the Village for the amount imposed pursuant to this Ordinance shall be deposited as follows: (i) 50% in the Village's road fund; and (ii) 50% in the Village's general fund to be used for tree planting and maintenance purposes.

SECTION FOUR: Special Applicability Rules. Notwithstanding the general requirement set forth in this Ordinance, relief from the demolition tax is available under the following circumstances; provided that applicable procedures are followed; and provided further that this Section shall not affect an applicant's obligation to pay any fee authorized under the Village's Building Code for a Demolition Permit:

(a) If the applicant (i) has been the record title or beneficial interest owner and occupant of the property on which the Demolition Building is located for all of the three years immediately preceding the date of the Demolition Permit application ("*Pre-Permit Period*"), (ii) remains the record title or beneficial interest owner of such property at all times after the pre-permit period until the date that is three years immediately after the date on which the certificate of occupancy for a new single-family dwelling on such property (the "*Replacement Building*") is issued ("*Post-Permit Period*"), and (iii) occupies the Replacement Building after a certificate of occupancy is issued therefor until at least the end of the Post-Permit Period, then a rebate of the Demolition Tax is available. To qualify under this Subsection, the applicant shall pay the applicable demolition tax to the Village and notify the Village at the time of such payment of applicant's intent to seek a rebate; the applicant may thereafter apply for a rebate of such tax

within six months after the Post-Permit Period has elapsed. Such application for rebate shall include title documents establishing the applicant's ownership during the entire Pre-Permit Period, as well as applicant's ownership and occupancy of the property for the entire Post-Permit Period. Any application for rebate shall be on forms prepared and provided by the Village; and

(b) If the applicant establishes to the satisfaction of the Village Manager that structural measures that qualify as a "demolition" under the Village's Building Code are required due to extensive damage to the Demolition Building caused by Force Majeure, then the Demolition Tax may be waived. For purposes of this Subsection, 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.

SECTION FIVE: Appeals. Any person who shall be subject to the tax pursuant to this Ordinance, or any applicant for relief under Ordinance, who disputes the imposition of or amount of the demolition tax imposed pursuant to this Ordinance or a determination under Ordinance may seek a review of such imposition or amount of the demolition tax or determination under Ordinance by filing with the Finance Commissioner, within 30 days after the notification of the demolition tax amount or the determination on a request for relief under Ordinance, a request for review. The request for review shall set forth in detail the basis for the dispute of the imposition, amount, or determination relating to the demolition tax. The Finance Commissioner shall thereafter consider the request for review, determine whether the demolition tax should be waived or reduced, and provide a written determination thereof. If such person seeks further review of the imposition or amount of the demolition tax or determination under Ordinance, such person shall file a request to appeal the determination of the Finance Commissioner with the

Village Clerk within 30 days after mailing of the determination by the Finance Commissioner; such appeal shall be considered by the Village of Bannockburn Board of Trustees based on the relevant facts available regarding the Demolition Building, the demolition tax, materials presented in connection with the request for relief under that Ordinance, and materials presented in connection with the Finance Commissioner's review provided under this Ordinance. The determination of the Village of Bannockburn Board of Trustees shall be final. In connection with any review or appeal under this Ordinance, a Demolition Permit may be issued upon paying the demolition tax, but any such tax payment shall not prevent a person from pursuing such review or appeal.

SECTION SIX: General Applicability. The tax imposed pursuant to this Ordinance shall not apply to any demolition for which a complete and proper application for the demolition permit was on file with the Village on or December 8, 2008, being the effective date of this Ordinance.

SECTION SEVEN: Filing with the Department of Revenue. The Village Manager is hereby authorized and directed to file with the Department of Revenue a certified copy of this Ordinance.

SECTION EIGHT: Administration and Enforcement. It is the responsibility and duty of the Finance Commissioner to implement the provisions of this Ordinance and to collect all amounts due to the Village under this Ordinance.

SECTION NINE: Proceeds of Tax. All proceeds resulting from the Demolition Tax (including late charges and interest) will be deposited into: (i) 50% in the Village's road fund and (ii) 50% in the Village's general fund for tree planting and maintenance purposes.

SECTION TEN: Severability. If any portion of this Ordinance is found invalid or unenforceable by a court of competent jurisdiction, such finding will not affect the validity and enforceability of all remaining provisions of this Ordinance, which provisions must be given full force and effect to the maximum extent possible, notwithstanding such finding of partial invalidity.

SECTION ELEVEN: Effective Date. This Ordinance is in full force and effect ten days after its passage, approval, and publication in pamphlet form in the manner provided by law.

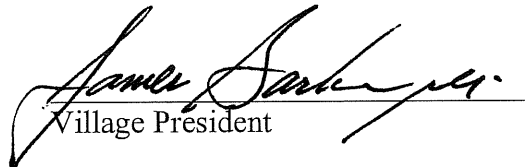
PASSED this 8th day of December, 2008.

AYES: Six (Boyle, Kirby, Korner, LaBunski, Nordby, Orth)

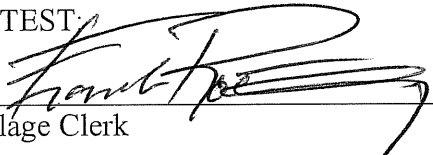
NAYS: None

ABSENT: None

APPROVED this 8th day of December, 2008.


Village President

ATTEST:


Village Clerk