

ORDINANCE NO. F-0842

**AN ORDINANCE AMENDING CHAPTER 66,
ARTICLE 7, SECTION 66-190, SUBSECTIONS (a)(11) and (b),
SECTION 66-193 AND SECTION 66-194 OF
THE WHEATON CITY CODE**

WHEREAS, in conformance with its home rule authority, the City of Wheaton has established a real estate transfer tax imposing a tax on the privilege of transferring title to real estate within the corporate limits of the City; and

WHEREAS, based on the experience and the application of the Ordinance, the Corporate Authorities of the City of Wheaton deem it appropriate to amend certain subsections of the Ordinance in order to clarify the intent of the Ordinance as well as provide clearer guidelines to staff in the administration of the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, pursuant to its home rule authority that Chapter 66 of the Wheaton City Code, Section 66-190, Subsection (a)(11), Section 66-193, and Section 66-194 are hereby amended as follows:

Section 1: That Section 66-190, Subsection (a)(11) is hereby repealed and rescinded in its entirety and replaced with a new Section 66-190, Subsection (a)(11) which shall read as follows:

“(a)(11) Deeds or Trust documents involving real estate acquired by or from any governmental body. For purposes of this subsection, the term “governmental body” shall include any Body Politic or Municipal Corporation defined in Illinois Statutes as well as any branch of the Federal Government but shall exclude non Illinois and non Federal Governmental Bodies. Governmental bodies shall also exclude pension funds which purchase or sell real property within the City of Wheaton where such property is held in whole or in part for investment purposes.”

Section 2: That Section 66-190, Subsection (b) is hereby repealed and rescinded in its entirety and replaced with a new Subsection (b) which shall read as follows:

“(b) Every Deed or Trust document which is tax exempt pursuant to this Section shall be presented to the Director of Finance so as to be appropriately marked by the Director to be eligible for recordation without payment of the tax. The Deed or Trust document, and any and all other documents reasonably necessary to determine the qualification of the Deed or Trust document for exemption shall be presented to the Director of Finance who shall have ten (10) business days from the presentation of the documents to determine exemption eligibility. It shall be the

applicant's burden to submit adequate documentation. Any party desiring to close a real property transaction prior to the Director of Finance's determination of exemption eligibility shall pay the tax imposed by this Ordinance pending the Director of Finance's final determination. There shall also be filed with the Director a verified certificate setting forth the facts which justify the exemption executed on behalf of the Grantor or Grantee on a form provided for by the Director. An administrative fee of twenty five dollars (\$25.00) shall be due for each exempt stamp."

Section 3: That Section 66-193, is repealed and rescinded in its entirety and replaced with a new Section 66-193 which shall read as follows:

"Section 66-193. Water and sewer charges

The Director of Finance shall issue no real estate transfer stamps to any person or entity unless the most current billing and any known unbilled usage for water and sewer assessments for the real estate or beneficial interest in the real estate which is the subject of the purposed transfer is fully paid. This Section shall apply to real estate containing multiple water meters where a current billing for water and sewer assessments has not been paid by a current or former tenant of the real estate."

Section 4: That Section 66-194, "Refund of tax", is hereby repealed and rescinded in its entirety and replaced with a new Section 66-194 which shall reads as follows:

"Section 66-194. Refund of tax.

(a) A grantee, buyer, assignee or transferee who has paid the tax provided for in this Article shall be entitled to a refund if:

1. Such grantee, buyer, assignee or transferee was a resident of a single family dwelling or condominium unit, or owner of a commercial or retail business within the corporate limits of the City and sold said property within one (1) year prior to the purchase of an owner occupied single family dwelling or condominium unit or owner occupied retail business within the City of Wheaton and which is subject to the tax provided in this Article.

2. A grantee, buyer, assignee or transferee who has paid the tax provided for in this Article shall be entitled to a refund of such tax if at least one of the grantees is the natural born or adopted child of one of the grantors of the real property which is the subject of the transfer and tax. The forms and procedures pertaining to a refund of the tax shall be promulgated by the Director of Finance."

Section 5: That all ordinances or parts thereof in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any such conflict or inconsistency.

Section 6: That should any clause, sentence, paragraph or part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 7: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as is hereby authorized and directed to be done by the Mayor and City Council.

ATTEST:



Mayor



City Clerk

Roll Call Vote

Ayes: Councilman Mouhelis
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Pro Tem Mork
Councilwoman Johnson

Nays: None

Absent: Mayor Carr

Motion Carried Unanimously

Passed: September 15, 2003
Published: September 16, 2003