

ORDINANCE NO. 7879-98

AN ORDINANCE ESTABLISHING THE PROCEDURES
FOR THE ISSUANCE OF RESIDENTIAL MORTGAGE
REVENUE BONDS BY THE CITY OF URBANA,
CHAMPAIGN COUNTY, ILLINOIS

WHEREAS, SECTION 6(a) of Article VII of the 1970 Constitution of Illinois provides that any municipality which has a population of more than 25,000 is a home rule unit and may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City of Urbana, Champaign County, Illinois (the "municipality") has a population in excess of 25,000 and is therefore a home rule unit; and

WHEREAS, the availability of decent, safe and sanitary housing that most people can afford is essential to retain and increase industrial and commercial activities and relieve conditions of unemployment in the municipality; and

WHEREAS, the shortage of decent, safe and sanitary housing that most people can afford is not transitory and self-curing; the cost of financing such housing is a major and substantial factor affecting the supply and cost of decent, safe and sanitary housing built by private enterprise; and the revenue bonds provided for in this Ordinance will substantially lower the cost of such financing; and

WHEREAS, it is necessary and desirable to provide for the issuance of revenue bonds to provide funds for the financing of decent, safe and sanitary housing within the municipality and financing through the issuance of such bonds is in the public interest and serves a public purpose by providing financing for decent, safe and sanitary housing that most people can afford and is a function pertaining to the government and affairs of the municipality; and

WHEREAS, the establishment of basic procedures for the issuance of revenue bonds to finance the costs of home ownership is necessary and desirable to provide clarity in law and direction for subsequent actions;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS AS FOLLOWS:

Section 1. Definitions. Whenever used in this Ordinance each of the following shall have the meaning indicated unless a different meaning clearly appears from the context:

(a) "bonds" means the revenue bonds authorized under this Ordinance and includes notes and any and all other limited obligations payable as provided hereunder.

(b) "municipality" means the City of Urbana, Champaign County, Illinois.

(c) "person" means any individual, partnership, co-partnership, firm, company, corporation, lending institution, association, joint stock company, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns.

(d) "lending institution" means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single family residential housing or multi-family residential housing located in the municipality or any holding company for any of the foregoing.

(e) "home mortgage" means an interest bearing loan to a mortgagor for the purpose of purchasing or improving a home, evidenced by a promissory note and secured by a mortgage on such home, but shall not include a loan primarily for the purpose of refinancing an existing loan.

(f) "home" means real property and improvements thereon located within the municipality consisting of a single family residence, including condominium units, or a two family residence to be occupied by the mortgagor as such mortgagor's principal place of residence.

(g) "mortgagor" means a person or persons who has received a home mortgage on a home and whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with such person or persons in such dwelling unit, shall not have been greater than \$40,000 for the immediately preceding taxable year.

Section 2. Legislative Declaration of Purpose. It is hereby determined and declared that the purpose of this Ordinance is to provide a means of financing the cost of residential ownership that will provide decent, safe and sanitary housing for residents of the municipality at prices they can afford; it is further determined and declared that such residential ownership will (a) provide for and promote the public health, safety, morals, and welfare; (b) assist persons in acquiring and owning decent, safe and sanitary housing which they can afford; (c) promote the integration of families of varying economic means; and (d) preserve and increase the municipality's ad valorem tax base;

and the foregoing are hereby determined and declared to be public purposes and functions pertaining to the government and affairs of the municipality.

Section 3. Additional Powers. In addition to powers which the municipality may now have, the municipality shall have all powers necessary to accomplish the purposes of this Ordinance including, but not limited to, the following:

(a) Home Mortgages. The municipality shall have the power:

(1) To acquire, and contract and enter into advance commitments to acquire home mortgages owned by lending institutions at such purchase prices and upon such other terms and conditions as shall be determined by the municipality or such other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts.

(2) To establish, by rules or regulations, in ordinances relating to any issuance of bonds or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of home mortgages as the municipality deems necessary or desirable, including but not limited to: (i) the time within which lending institutions must make commitments and disbursements for home mortgages; (ii) the location and other characteristics of homes to be financed by home mortgages; (iii) the terms and conditions of home mortgages to be acquired; (iv) the amounts and types of insurance coverage required on homes, home mortgages and bonds; (v) the representations and warranties of lending institutions confirming compliance with such standards and requirements; (vi) restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions; (vii) the type and amount of collateral security to be provided to assure repayment of bonds; and (viii) any other matters related to the purchase of home mortgages as shall be deemed relevant by the municipality.

(3) To require from each lending institution from which home mortgages are purchased the submission, at the time of such purchase, of evidence satisfactory to the municipality of the ability and intention of such lending institution to make home mortgages, and the submission, within the time specified by the municipality for making disbursements for home mortgages, of evidence satisfactory to the municipality of the making of home mortgages and of compliance with any standards and requirements established by the municipality.

(b) Bonds. The municipality shall have the power:

(1) To issue bonds to defray, in whole or in part, (i) the costs of purchasing home mortgages, (ii) the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting and marketing services incurred in connection with the issuance and sale of such bonds, including bond and interest reserve accounts and trustee, custodian and rating agency fees and (iii) such other costs as are reasonably related to the foregoing.

(2) To sell or otherwise dispose of any home mortgages, in whole or in part, so that the revenues and receipts to be derived with respect to the home mortgages, together with any insurance proceeds, reserve accounts and earnings thereon shall be designed to produce revenues and receipts at least sufficient to provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance such costs.

(3) To pledge any revenues and receipts to be received from any home mortgages to the punctual payment of bonds authorized under this Ordinance, and the interest and redemption premiums, if any, thereon.

(4) To mortgage, pledge or grant security interests in any home mortgages, notes or other property in favor of the holder or holders of bonds issued therefor.

(5) To sell and convey any home mortgages for such prices and at such times as the governing body of the municipality may determine.

(6) To issue its bonds to refund in whole or in part at any time bonds theretofore issued by the municipality under authority of this Ordinance.

(7) To make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted herein.

Bonds shall not be issued under the powers granted by this Ordinance unless such bonds are rated "A" or better by one of the nationally recognized rating agencies.

Section 4. Exercise of Powers, Bonds.

The exercise of any or all powers granted by this Ordinance may be authorized, and the bonds may be authorized to be issued under this Ordinance, for the purposes set forth in this Ordinance, by ordinance of the governing body of the municipality, and said ordinance may be adopted at the same meeting at which it is introduced and shall take effect immediately upon adoption. Any such ordinance shall set forth a legislative finding and declaration (i) of the public purpose therefor and (ii) that such ordinance

is being enacted pursuant to the powers granted by this Ordinance.

The bonds shall bear interest at such rate or rates, may be payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 40 years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions, may be in such form, either coupon or registered, and may bear such name as such ordinance may provide. The bonds may be sold at private sale in such manner and upon such terms as may be provided in such ordinance. Pending the preparation of definitive bonds, interim receipts or certificates in such form and with such provisions as may be provided in such ordinance, may be issued to the purchaser or purchasers of bonds sold pursuant to this Ordinance. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the "Uniform Commercial Code".

Section 5. Covenants in Bonds. Any ordinance authorizing the issuance of bonds authorized under this Ordinance may contain covenants as to (a) the use and disposition of the revenues and receipts from any home mortgages for which the bonds are to be issued, including the creation and maintenance of reserves; (b) the insurance to be carried on any home, home mortgage or bonds and the use and disposition of insurance moneys; (c) the appointment of one or more banks or trust companies within or outside the State of Illinois, having the necessary trust powers, as trustee and/or custodian for the benefit of the bondholders, paying agent or bond registrar; (d) the investment of any funds held by such trustee, custodian or lending institution; (e) the maximum interest rate payable on any home mortgage; and (f) the terms and conditions upon which the holders of the bonds or any portion thereof, or any trustees therefor, are entitled to the appointment of a receiver by a court of competent jurisdiction, and said terms and conditions may provide that the receiver may enter and take possession of the home mortgages, or any part thereto, and maintain, sell or otherwise dispose of such mortgages, prescribe other payments and collect, receive and apply all income and revenues thereafter arising therefrom. Any ordinance authorizing the issuance of bonds under this Ordinance shall provide that the principal of and interest on any bonds issued under this Ordinance shall be secured by a mortgage, pledge, security interest, insurance agreement or indenture of trust covering such home mortgages for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage, pledge, security interest, insurance agreement or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the ordinance authorizing such bonds and shall be executed in the manner as may be provided for in the ordinance. The provisions of this Ordinance and any such ordinance and any such mortgage,

pledge, security interest or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid or provision made therefor, and the duties of the municipality and its corporate authorities and officers under this Ordinance and any such ordinance and any such mortgage, pledge, security interest or indenture of trust shall be enforceable as provided therein by any bondholder by mandamus, foreclosure of any such mortgage, pledge, security interest or indenture of trust or other appropriate suit, action or proceeding in any court of competent jurisdiction; provided the ordinance or any mortgage, pledge, security interest or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee (with full power of appointment) for the benefit of all the bondholders which trustee shall be subject to the control of such number of holders or owners of any outstanding bonds as provided therein.

Section 6. Signatures of Officers on Bonds - Validity of Bonds. The bonds shall bear the manual or facsimile signatures of such officers of the municipality as may be designated in the ordinance authorizing such bonds and such signatures shall be the valid and binding signatures of the officer of the municipality, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the municipality issuing such bonds. The validity of the bonds is not dependent on nor affected by the validity or regularity of any proceedings relating to the home mortgages for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Ordinance, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 7. Lien of Bonds. Bonds issued under this Ordinance shall be secured by a pledge of or lien upon the revenues and receipts derived from the home mortgages with respect to which the bonds have been issued.

Section 8. Liability for Bonds. All bonds issued under and pursuant to this Ordinance shall be limited obligations of the municipality payable solely out of the revenues and receipts derived from the home mortgages or from any notes or other obligations of lending institutions with respect to which such bonds are issued. No holder of any bonds issued under this Ordinance has the right to compel any exercise of the taxing power of the municipality to pay the bonds, the interest or redemption premium, if any, thereon, and the bonds shall not constitute an indebtedness of the municipality or a loan of credit thereof within the meaning of any constitutional or statutory provision, nor shall the bonds be construed to create any moral obligation on the part of the

municipality or any political subdivision thereof with respect to the payment of such bonds. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Ordinance and that it does not constitute an indebtedness of the municipality or a loan of credit thereof within the meaning of any constitutional or statutory provisions.

Section 9. Investment of Funds. The municipality, or any trustee or custodian on behalf of the municipality, may invest any funds held by it as provided in the ordinance authorizing the issuance of the bonds.

Section 10. Exemption from Construction and Bidding Requirements. Any requirement of competitive bidding or restriction imposed on the procedure for award of contracts for the sale or other disposition of property of the municipality is not applicable to any action taken under authority of this Ordinance.

Section 11. Powers Conferred as Additional and Supplemental; Limitations Imposed - Effect. The powers conferred by this Ordinance are in addition and supplemental to, and the limitations imposed by this Ordinance shall not affect, the powers conferred by any other ordinance. Home mortgages may be acquired, purchased and financed, and bonds may be issued under this Ordinance for such purposes, notwithstanding that any law or any other ordinance may provide for the acquisition, purchase and financing of like home mortgages, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in any law or any other ordinance.

Section 12. Severability Clause. The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 13. Construction of Ordinance. This Ordinance is necessary for the health, welfare and safety of the municipality and its inhabitants; therefore, it shall be liberally construed to effect its purposes.

Section 14. Effective Date. This Ordinance shall take effect upon adoption and approval by the Mayor.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council on the 7th day of May, 1979.

PASSED by the City Council this 7th day of May,

1979.

Ruth S. Brookens
Ruth S. Brookens, City Clerk

APPROVED by the Mayor this 7th day of May,

1979.



Jeffrey T. Markland, Mayor