

City of Port Huron, Michigan
ORD #23-007

An ordinance to amend Chapter 16, Community Development, Article IV, Housing Development for Low-Income Persons, of the Port Huron Code of Ordinances, to provide for a service charge in lieu of taxes for a housing project for low-income persons and families, known as Lincoln Avenue Lofts, to be financed with a federally-aided mortgage loan pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et seq) (THE "ACT").

THE CITY OF PORT HURON ORDAINS:

That Chapter 16, Community Development, Article IV, Housing Development for Low-Income Persons, of the Port Huron Code of Ordinances is hereby amended by adding a newly created Division 10, CHN Lincoln Limited Dividend Housing Association Limited Partnership, as follows:

CHAPTER 16. COMMUNITY DEVELOPMENT

ARTICLE IV. Housing Development for Low-Income Persons

DIVISION 10.

CHN Lincoln Limited Dividend Housing Association Limited Partnership

Sec. 16-560. Sponsor.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low-income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City of Port Huron is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low-income persons and families is a public necessity, and as the City of Port Huron will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City of Port Huron acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to acquire, rehabilitate, own and operate a housing project identified as Lincoln Avenue Lofts on certain property located in the City of Port Huron, St. Clair County, Michigan and commonly known as 1003, 1011, 1013, 1019, 1023, 1027 Erie Street and 805, 807, 811 Rawlins Street, and 810, 814 Lincoln Avenue (further described below) to serve low income persons and families, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes. Described for tax purposes as follows:

Tax Legal Description: S 27 FT OF N 63 FT LOT 8 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 1011 Erie Street
Tax ID: 74-06-365-0226-000

Tax Legal Description: N 36 FT LOT 8 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 1013 Erie Street
Tax ID: 74-06-365-0222-000

Tax Legal Description: S 1/3 LOTS 1 & 2 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 1019 Erie Street
Tax ID: 74-06-365-0214-000

Tax Legal Description: S 1/2 OF N 2/3 LOTS 1 & 2 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 1023 Erie Street
Tax ID: 74-06-365-0213-000

Tax Legal Description: N 1/3 LOT 1 & N 1/3 OF E 12 FT LOT 2 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 1027 Erie Street
Tax ID: 74-06-365-0212-000

Tax Legal Description: N 1/3 OF W 38 FT LOT 2 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 810 Lincoln Avenue
Tax ID: 74-06-365-0215-000

Tax Legal Description: LOT 3 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 814 Lincoln Avenue
Tax ID: 74-06-365-0216-000

Tax Legal Description: S 23 FT LOT 8 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 805 Rawlins Street
Tax ID: 74-06-365-0224-000

Tax Legal Description: LOT 7 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 807 Rawlins Street

Tax ID: 74-06-365-0221-000

Tax Legal Description: LOT 6 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 811 Rawlins Street

Tax ID: 74-06-365-0220-000

Tax Legal Description: N 23.5 FT OF S 46.5 FT LOT 8 BLK 20 SUBDIVISION OF THE FORT GRATIOT MILITARY RESERVATION

Common Address: 1003 Erie Street

Tax ID: 74-06-365-0223-000

Sec. 16-561. Definitions.

The following definitions are applicable to this Division 10 of Chapter 16.

ANNUAL SHELTER RENT - means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.

AUTHORITY - means the Michigan State Housing Development Authority.

LIHTC PROGRAM - means the Low-Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

LOW INCOME PERSONS AND FAMILIES - means persons and families eligible to move into a housing project.

MORTGAGE LOAN - means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

SPONSOR - means CHN Lincoln Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan.

UTILITIES - means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

Sec. 16-562. Class of housing projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that _Lincoln Avenue Lofts is of this class.

Sec. 16-563. Establishment of annual service charge.

The housing project identified as Lincoln Avenue Lofts and the real property on which it will be located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to construct/rehabilitate Lincoln Avenue Lofts and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 7% of the Annual Shelter Rents actually collected by the housing project during each operating year, exclusive of charges for gas, electric, water, sanitary sewer, and other utilities furnished to the occupants that are paid by the housing project.

Sec. 16-564. Contractual effect of division.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

Sec. 16-565. Limitation on the payment of annual service charge.

Notwithstanding Section 15.563, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than low-income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

Sec. 16-566. Payment of service charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year, except that the annual service charge shall be paid in one (1) annual payment, which annual payment shall be paid to the City on or before July 1 of each year for the previous calendar year. In addition to the payment of the service charge the Sponsor shall provide to the City a copy of the annual audit or other financial information reasonably requested by the City to verify the amount of the service charge. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

Sec. 16-567. Duration.

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid, the housing project remains subject to income and rent restrictions under the LIHTC Program, or a land use restriction for affordable housing remains on the property; provided that construction of the housing development identified as Lincoln Avenue Lofts commences within three years from the effective date of this Ordinance; and provided further that in no event shall the exemption granted under Section 15.563 of this Ordinance continue for more than 30 years. In the event that Lincoln Avenue Lofts fails to meet the requirements in this section, then this Ordinance may be amended at the sole discretion of the City of Port Huron Council.

Sec. 16-568. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

Sec. 16-569. Inconsistent ordinances.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict. Provided, this Ordinance shall not be deemed to conflict or be inconsistent with Divisions one (1) through nine (9) of this Article.

ADOPTED: November 13, 2023

PUBLISHED: November 17, 2023

EFFECTIVE: November 18, 2023

RESULT:	2ND READING/ENACTED BY CONSENT [UNANIMOUS]
MOVER:	Anita R. Ashford, Councilmember
SECONDER:	Jeffrey R. Pemberton, Councilmember
YES:	Repp, Archibald, Ashford, Haremza, Lamb, Mosurak, Pemberton

I, Pauline M. Repp, Mayor of the City of Port Huron, do hereby certify that ORD #23-007 was passed and adopted by the Port Huron City Council at its meeting held on Monday, November 13, 2023.

Mayor

Date

I, Cyndee M. Jonseck, City Clerk of the City of Port Huron, do further certify that ORD #23-007 was published Friday, November 17, 2023, in the Times Herald, a newspaper circulated in the City of Port Huron, being the first and final day of publication.

Cyndee M. Jonseck, CMC, MiPMC
City Clerk