

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 2 OF CHAPTER 70, TAXATION, TO ADD DIVISION 10, CENTRE STREET VILLAGE APARTMENTS PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES AND TO REPEAL DIVISION 5 OF ARTICLE 2.

THE CITY OF PORTAGE ORDAINS:

That Article 2 of Chapter 70, Taxation, is hereby amended to add Division 10, Centre Street Village Apartments:

Section 70-281. Preamble and intent.

A. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act (1966 PA 346 as amended). The City of Portage 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 the Act.

B. The City of Portage acknowledges that Centre Street Village II Limited Dividend Housing Association Limited Partnership ("Sponsor") has offered, subject to receipt of a Mortgage Loan (as defined below) to rehabilitate, own and operate a housing development identified as Centre Street Village Apartments on certain property located in the City of Portage to serve persons of low income or families and that the Sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

Section 70-282. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the State Housing Development Authority Act of 1966, as amended, (1966 PA 346) being (MCL 125.1401 et. seq.).

Annual Shelter Rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric, heat or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Persons of Low Income or Families shall mean housing developments which consist of households which are at or below 60% of Area Median Income ("AMI"). With respect to this housing development a total of 28 units will be reserved for Persons of Low Income or Families. Specifically, three (3) units for households at or below 50% of AMI, and with respect to 25 units, households at or below 60% of AMI, in all instances adjusted for household size.

Federally-aided Mortgage means any of the following:

- (i) A below market interest rate mortgage insured, purchased, or held by the Secretary of the Department of Housing and Urban Development;
- (ii) A market interest rate mortgage insured by the Secretary of Housing and Urban Development and augmented by a program of rent subsidies;
- (iii) A mortgage receiving interest reduction payments provided by the Secretary of the Department of Urban Housing and Development;
- (iv) A mortgage on a Housing Development to which the Authority allocates low income housing tax credits in Section 22b; or
- (v) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.

Housing Development means a development which contains a significant element of housing for Persons of Low and Moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improve the quality of the development as it relates to housing for Persons of Low and Moderate Income.

Mortgage Loan means (a) a loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the housing development, (b) a loan made from the proceeds of tax-exempt bonds issued by the Authority, or (c) a loan secured by a Federally-aided Mortgage.

Net Shelter Rents means, for any Calendar Year, Annual Shelter Rents less Utilities.

Property means the real property described commonly known as 2151 E. Centre Street, Portage, MI 49002, being tax ID number 00014-041-O, and legally described as follows:

PROPERTY LOCATED IN THE CITY OF PORTAGE, KALAMAZOO COUNTY, STATE OF MICHIGAN, DESCRIBED AS:

PART OF THE SOUTHWEST 1/4 OF SECTION 14, T3S-R11W, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT ON THE SOUTH LINE OF SECTION 14 THAT IS S89°-45'-16"WEST, 845.00 FEET FROM THE SOUTH 1/4 CORNER OF SECTION 14; THENCE N00°-35'-54"WEST, 660.34 FEET; THENCE S89°-45'-16"WEST, 1187.53 FEET; THENCE S00°-38'-55"EAST, 165.16 FEET; THENCE NORTH 89°-44'-32" EAST, 527.94 FEET; THENCE S00°-36'-40" EAST, 495.28 FEET TO THE SOUTH LNE OF SECTION 14; THENCE N89°-45'-16"EAST, 659.35 FEET TO THE POINT OF BEGINNING. RESERVING THEREFROM THE SOUTH 33 FEET FOR HIGHWAY PURPOSES.

Sponsor means Centre Street Village II Limited Dividend Housing Association Limited Partnership, 30100 Telegraph Rd., Birmingham, MI 48025, its successors in interest, which has applied (or is about to apply) to the Authority for Federally-aided Mortgage Loan to finance the Housing Development.

Utilities means charges for fuel, water, sanitary sewer service, rubbish removal, and electrical service which are paid by the Housing Development, during the Calendar Year.

Section 70-283. Exemption of Low Income Housing Developments Only.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing for persons and families of low income, which are financed or assisted pursuant to the Act. With respect to the Property, a total of 28 units will be reserved for Persons of Low Income or Families and, specifically three (3) units for households at or below 50% of AMI, and with respect to 25 units, households at or below 60% of AMI, in all instances adjusted for household size. It is further determined that Centre Street Village Apartments is of this class.

Section 70-284. Amount of service charge.

The Property shall be exempt from all property taxes from and after its acquisition by the Sponsor and its receipt of a Mortgage Loan. The city acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this Division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this Division. In consideration of the Sponsor's acquisition of the Property and proposed rehabilitation of the housing development, subject to the terms and conditions of the Mortgage Loan to the Sponsor, the city hereby agrees to accept the payment of an annual service charge for public services in lieu of all property taxes from the Sponsor. The annual service charge shall be equal to six percent (6%) of the Annual Shelter Rents for 15 years of operation after the acquisition of the Property, its receipt of a Mortgage Loan and its commencement of its proposed rehabilitation but in any event not less \$31,784.00. Thereafter, for the 16th through 50th year, the annual service charge and minimum payment stated in this section shall be reviewed, and if the Mortgage Loan is still in effect, the annual service charge and minimum payment stated in this section shall not change.

Section 70-285. Payment of service charge.

The service charge in lieu of taxes, as determined according to this division, shall be payable, enforceable and, if not paid timely, collectible in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$31,784.00 is due on or before December 31 of each year.
- (2) All additional amounts owing from the December 31 payment of the previous year, as determined to be owing based on an audit, is due on or before by July 1 of each year.

Section 70-286. Verification of Annual Shelter Rent.

The Sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported to the State Housing Development Authority or other form of financial deemed suitable to the city.

Section 70-287. Effective period of Division.

This division shall:

- (1) Become effective only after sponsor acquires the Property and receives and closes a Mortgage Loan; and
- (2) Shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid or the Michigan State Housing Development Authority has any interest in the property, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division.

Section 70-288. Contractual effect of Division.

Notwithstanding the provisions of Section 15(a)(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the state housing development authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division is effectuated by enactment of this division.

Section 70-289. Severability.

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

Section 70-290. Repealer of Division 5 of Article 2, Chapter 70.

Sections 70-141 through 70-170 of Article 2, Chapter 70 (Centre Street Village Project) shall be repealed in their entirety on the effective date (as provided in section 70-287(1)) of this division.

FIRST READING: October 8, 2013
SECOND READING: October 22, 2013
ORDINANCE #: 13-08
EFFECTIVE DATE: November 12, 2013