

DELHI CHARTER TOWNSHIP
INGHAM COUNTY, MICHIGAN

ORDINANCE NO. 126.1

PREAMBLE

AN ORDINANCE PURSUANT TO ACT 346 OF THE MICHIGAN PUBLIC ACTS OF 1966, AS AMENDED, TO ENCOURAGE THE DEVELOPMENT AND CONSTRUCTION OF HOUSING FOR LOW-INCOME FAMILIES BY PROVIDING FOR THE PAYMENT OF AN ANNUAL SERVICE CHARGE IN LIEU OF AD VALOREM PROPERTY TAXES: TO PROVIDE A FORMULA FOR COMPUTATION OF SAID SERVICE CHARGE, AND THE LENGTH OF TIME SUCH CHARGE SHALL BE PAID; TO DEFINE TERMS, DESCRIBE LAND, AND TO SET FORTH RESTRICTIONS NECESSARY FOR THE IMPLEMENTATION OF THE PROVISIONS HEREOF; TO PROVIDE FOR FISCAL REPORTING, COLLECTION OF TAXES AND CHARGES AND ASSESSMENT OF VALUATION DURING THE EFFECTIVE DATES OF THIS ORDINANCE; TO PROVIDE FOR DISTRIBUTION OF THE ANNUAL SERVICE CHARGE COLLECTED PURSUANT HERETO, TO DELINEATE SPECIAL ASSESSMENTS TO WHICH SAID PROPERTY SHALL BE SUBJECT AND TO PROVIDE FOR AN EFFECTIVE DATE HEREOF.

THE CHARTER TOWNSHIP OF DELHI ORDAINS:

SECTION I. This Ordinance shall hereafter be known and cited as the "Charter Township of Delhi Payment in Lieu of Taxes Ordinance — Prestwick Village Apartments."

SECTION II. 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 for its elderly citizens 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 of 1966 (1966 PA 346, as amended, MCL 125.1401 *et seq.*). The Township is authorized by said 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 the Act at an amount it chooses, not to exceed the taxes that would be paid but for the Act. It is further acknowledged that such housing for persons of low income is a public necessity, and the Township will be benefited and improved by such housing. The encouragement of the same by providing certain real-estate tax exemption therefore is a valid public purpose; further, that the continuance of the provisions of this article for tax exemption and the service charge in lieu of taxes during the periods hereinafter

contemplated are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance thereon.

The Township acknowledges that the Owner has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to erect, own and operate the housing development to be known as Prestwick Village Apartments on certain property located at 2363 Cedar Street, in Delhi Charter Township, Ingham County, State of Michigan, which is legally described in Section IV, below, to serve persons of low income, and that the Owner has offered to pay the Township on account of this housing development an annual service charge for public services in lieu of taxes.

SECTION III. Definitions: For the purpose of this Ordinance the following terms shall have the meaning set forth in this section:

(a) “Authority” shall mean the Michigan State Housing Development Authority.

(b) “Act” shall mean the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

(c) “Contract Rent” shall mean the rent, from all sources, paid or payable to the Owner, for housing for Low Income Persons and Families within the Exempt Area, exclusive of utilities.

(d) “Exempt Area” shall be that portion of the property described herein which is utilized for multifamily housing pursuant to a regulatory agreement (or regulatory agreements) between the Owner (as applicable) and the Authority, providing for construction or rehabilitation and operation of housing for Low Income Persons and Families pursuant to Act 346 of 1966, as amended. The Exempt Area may include a split of the property into two separate tax parcels for the development of housing in two phases, with separate and distinct ownership.

(e) “Low Income Persons and Families” shall mean low income persons and families as defined in Section 15(a)(7) of the Act.

(f) “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 or Owner for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the Exempt Area.

(g) “Owner” shall mean Prestwick Village LDHA LLC, the Sponsor, or its/their successors and assigns and all persons, corporations, partnerships or other entity having an interest in the Exempt Area.

(h) "Persons with disabilities" means persons with disabilities defined in the Persons with Disabilities Civil Rights Act, as amended, MCL 37.1101 *et seq.*

(i) "Sponsor" shall mean Gryphon Group LLC, a Michigan limited liability company.

SECTION IV. Exempt Area: Pursuant to Act 346 of 1966, as amended, the Township hereby establishes an Exempt Area which shall be exempt from ad valorem property taxation and is described as follows:

PROPERTY ADDRESS: 2363 Cedar Street, Holt, Michigan 48842

PARCEL: 33-25-05-15-201-016, Delhi Charter Township

LEGAL DESCRIPTION: A parcel of land in the Northeast ¼ of Section 15, Township 3 North, Range 2 West, Delhi Township, Ingham County, Michigan, also, the West ½ of Lot 15, Sterling Farms Subdivision, as recorded in Liber 6 of plats, Page 46, Ingham County Records being more particularly described as follows: Commencing at the North ¼ Corner of Section 15, T3N, R2W; thence S 00°44'55" W, 1325.79 feet along the North-South ¼ line to the Northeast Corner of Sterling Farms No. 2; as recorded in Liber 8 on page 16 of the Ingham County records and the point of beginning of the following described parcel; thence S 88°27'58" E, 8.18 feet to the East right of way line of Main Street; thence along said Easterly right of way line on a curve to the left, 20.35 feet, said curve having a radius of 66.75 feet, a delta angle of 17°28'04", and a chord bearing N 07°52'28" E, 20.27 feet; thence S 88°27'58" E, 803.51 feet; thence S 38°38'38" E, 12.11 feet; thence S 88°28'48" E, 321.45 feet to the Westerly line of State Highway U.S. 127 (Cedar Street) 43 feet from centerline; thence on a curve to the left, 13.27 feet, said curve having a radius of 5678.72 feet, a delta angle of 00°08'02" and a chord bearing S 38°59'05", 13.27 feet along said Westerly line to the East-West 1/8 line of the Northeast ¼ of Section 15; thence S 89°15'15" E, 13.02 feet along said 1/8 line to the Westerly line of State Highway U.S. 127 (Cedar Street) 33 feet from the centerline; thence on a curve to the left, 31.08 feet, said curve having a radius of 5678.67 feet; a delta angle of 00°18'49" and a chord bearing S 37°22'46" E, 31.08 feet along said Westerly line; thence S 53°38'13" W, 119.00 feet; thence S 13°21'42" E, 130.98 feet; thence N 71°51'35" E, 2.38 feet; thence S 01°13'28" W, 98.50 feet along the Northerly Extension of the East line of Lot 11 of Sterling Farms Subdivision, as recorded in Liber 6, Page 46, of the Ingham County records to the Northeast Corner of said Lot 11; thence N 88°57'32" W, 472.40 feet along the North line of Sterling Farms Subdivision to the Northeast corner of the West ½ of Lot 15, Sterling Farms Subdivision, thence S 01°13'28" W, 228.50 feet along the East line of the West ½ of Lot 15, Sterling Farms Subdivision; thence N 88°15'13" W, 52.35 feet along the South line of Lot 15 Sterling Farms Subdivision; thence N 01°13'28" E, 227.85 feet along the West line of Lot 15, Sterling Farms Subdivision to the Northwest corner of Lot 15, Sterling Farms Subdivision; thence N 88°57'32" W, 207.84 feet along the North line of Sterling Farms Subdivision, thence N 00°44'55" E, 156.50 feet along a line parallel to the North-South ¼ line; thence N 88°57'32" W, 384.00 feet along a line parallel to the North line of Sterling Farms Subdivision; thence N 00°44'55" E, 172 feet along the North-South ¼ to the point of beginning. Entire parcel containing 7.64 acres, more or less, and subject to any easements or restrictions of use or record.

PROVIDED, however, that the Exempt Area shall be limited to that portion of the above-described property utilized for housing of Low Income Persons and Families (including Persons with disabilities) including property located on said premises set aside for purposes of ingress, egress, parking, recreation, management activities and open space if such open space is or has been approved as such by the Township Planning Commission.

SECTION V. Reserved.

SECTION VI. Annual Service Charge: That, following both the commencement of construction and receipt of a certified notification from the Authority that the Owner qualifies for such exemption, the Owner shall pay, in lieu of ad valorem property taxes which would otherwise be payable as to the Exempt Area, an annual service charge. Said annual service charge shall be paid in the same manner as general property taxes are payable to the Township (including, without limitation, administrative fees, late payment penalties, and interest as authorized by law), except that the annual payment shall be paid on or before June 30 of each year, and shall be equal to four (4%) percent of the Contract Rents received during the previous twelve (12) month period, or Ten Thousand and No/100 Dollars (\$10,000.00), whichever is greater. Notwithstanding the foregoing, for any tax year in which the Exempt Area has not received Contract Rents for a full twelve months because the Exempt Area was undeveloped during a portion of such year, then the annual service charge in such year shall be the greater of the four (4%) percent of the Contract Rents received during the previous twelve (12) month period or the ad valorem property taxes which would otherwise be payable as to the undeveloped Exempt Area. PROVIDED, however, that said annual service charge shall not be in lieu of sanitary sewer and water charges. Provided further that payment of said annual service charge shall not exempt said property from charges for special assessments for public improvements and special assessments for police and fire protection pursuant to Acts 33 and 181 of 1951 in the event such special assessments are hereafter adopted by the Township.

SECTION VII. Township Allocation of Annual Service Charge: That upon receipt of said annual service charge the Township shall allocate same pro-rata to those entities authorized to receive property tax revenue and shall transmit such funds accordingly.

SECTION VIII. Pro-Rata Taxation in Last Year of Exemption: In the event the exemption from taxation granted hereunder expires or is otherwise terminated after “tax

day” as that term is defined in the General Property Tax Act, the Owner shall pay its pro-rata share of the Annual Service Charge and its pro-rata share of the ad valorem property tax for said year which tax would have been assessed but for the exemption granted hereunder.

SECTION IX. Exempt Property Roll, Purpose: Notwithstanding the exemption granted hereunder, the Township Assessor shall, each year, compute the true cash value and assessed valuation of said exempt area and record the results thereof in an “Exempt Property Roll” hereby created. The Township shall notify the Owner as to said valuation to the same extent and at the same time as notice is given to payors of real property taxes within the Township and the Owner shall have the right to contest said valuation before the Board of Review and to appeal such valuation as provided by law. Upon the expiration or termination of the exemption herein provided, the valuation of the property as last established, shall be placed upon the tax roll of the Township and the next succeeding tax bill shall be computed according to Section VIII above. Said valuation shall also be used for purposes of establishing the portion of special assessments for police and fire which may be levied against the exempt area.

SECTION X. Tax Exemption Effective Date, Termination Date; Maximum Exemption Period: The exemption from taxation created herein and all the other provisions of this Ordinance shall be effective from the date the Exempt Area is acquired by the Owner and shall continue as set forth herein. The exemption provided herein shall not continue beyond the life of any current or future Mortgage Loan obtained by the Owner with reference to the Exempt Area for the purpose of acquiring and/or construction of housing for Low Income Persons and Families (including Persons with disabilities). A copy of any said mortgage(s) shall be filed with the Township Clerk. The foregoing notwithstanding, no exemption granted hereunder shall extend for more than fifty (50) years from the date of the enactment of this ordinance.

SECTION XI. Collection of Annual Service Charge and Taxes Upon Default: Upon the failure of the Owner to pay the Annual Service Charge, when due, which has not been cured pursuant to Section XIII, below, the Annual Service Charge for said delinquent year shall be equal to the ad valorem property tax payable but for the exemption granted hereunder. Said amount shall be placed upon the roll and collected in the manner provided by law for the collection of ad valorem property taxes.

SECTION XII. Inter-relationship of Mortgage and Ordinance: The adoption and continued efficacy of this Ordinance being a condition precedent to the execution of a Mortgage Loan for the operation and construction or rehabilitation of housing for Low Income Persons and Families (including Persons with disabilities), the Township recognizes that the Owner and the Authority are relying upon the terms hereof.

SECTION XIII. Contractual Effect of Ordinance: Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the Township and the Owner 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. Failure of the Owner to pay the annual service charge when due and to operate and maintain said Exempt Area so as to be eligible for a payment in lieu of taxes as provided in this article or a judicial determination of a material violation of the Act or regulations of the Authority shall be deemed to be a violation of this article and default hereunder. Notice of such violation shall be provided to the Owner and the Authority.

SECTION XIV. Severability: This Ordinance and the various Sections, sentences and clauses hereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged to be unconstitutional or invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions or applications are not determined by the court to be inoperable.

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SECTION XIII. Effective Date: This Ordinance shall become effective upon its final publication or posting as required by law.

First introduced: 6th day of August, 2014.

First published: 9th day of August, 2014.

Adopted: 19th day of August, 2014.

Published: 24th day of August, 2014.

THE CHARTER TOWNSHIP OF DELHI

BY _____
C.J. Davis, Supervisor

BY _____
Evan Hope, Clerk

I, Evan Hope, Clerk of the Charter Township of Delhi, hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 126.1, duly adopted by the Board of Trustees of the Charter Township of Delhi, Ingham County, Michigan on the 19th day of August, 2014.

Evan Hope, Clerk