

**MICHIGAN CITY COMMON COUNCIL**

**ORDINANCE NO. 4701**

**AN ORDINANCE CREATING SEC. 2-411 IN CHAPTER 2 OF ARTICLE VI OF THE MICHIGAN CITY MUNICIPAL CODE TO ESTABLISH A FUND FOR AFFORDABLE HOUSING AND SENIOR HOUSING REPAIR WITHIN THE CITY OF MICHIGAN CITY, INDIANA**

**WHEREAS**, the City of Michigan City, Indiana (the “City”) is a duly organized municipal corporation and political subdivision under the laws of the State of Indiana, governed by its duly elected Common Council (the “Common Council”); and

**WHEREAS**, Michigan City RCF LP, an Indiana limited partnership (the “Owner”) has acquired, developed, constructed and operated an affordable assisted living residential care multifamily housing apartment project on approximately 7.00-acre site located at 4400 East Michigan Boulevard in the City, known as the Silver Birch or Michigan City Residential Care Facility (“Silver Birch”); and

**WHEREAS**, Silver Birch was developed, constructed, and operated for the purpose of providing housing to income eligible persons under the federal low-income housing tax credit program under 26 U.S.C. § 42; and

**WHEREAS**, Silver Birch is subject to an extended use agreement administered by the Indiana Housing and Community Development Authority for a period of at least 15 years, wherein the property is only available to residents whose income is 60% or less of the area median gross income with rents restricted to no greater than 30% of the imputed income limitation applicable to each unit pursuant to Section 42(g)(2)(C) of the Internal Revenue Code of 1986, as amended; and

**WHEREAS**, under these circumstances, the property is exempt from property tax as an operation of Indiana law, specifically Ind. Code § 6-1.1-10-16(a); and

**WHEREAS**, the City and the Owner agreed to enter into an agreement for payment in lieu of taxes (“PILOT” agreement) authorized under Ind. Code § 36-1-8-14.2 through Michigan City Ordinance Number 4399 passed by the Michigan City Common Council on September 20, 2016 and signed by the Mayor on September 21, 2016; and

**WHEREAS**, that PILOT agreement called for a Combined Payment Amount of \$20,000 for tax years that Silver Birch was partially assessed prior to the certificate of occupancy by the City and \$70,000 in the first tax year in which Silver Birch was completed and fully assessed after the issuance of a certificate of occupancy with such amount increasing thereafter by one percent per annum for each subsequent year under the PILOT agreement; and

**WHEREAS**, after due consideration, the Common Council has made the determination that it is in the best interest of the City to take this payment under the PILOT agreement, which exists due to viable affordable housing within the City, and further uses these funds towards the end goal of additional affordable housing; and

**WHEREAS**, in recognition of certain economic realities, the Common Council has made the determination that it is in the best interest of the City to also allow payments under this PILOT agreement to assist in defraying the costs of home repairs within the City for its senior residents; and

**WHEREAS**, the Common Council has made the determination these funds should be solely used for the above-named matters.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Michigan City, La Porte County, Indiana, that Sec. 2-411 is created in Chapter 2 of the Michigan City Municipal Code and shall read as follows:

**Sec. 2-411. Affordable Housing and Senior Housing Repair Fund.**

1. The City Controller is authorized to create a permanent non-reverting fund, to be entitled Affordable Housing – Senior Repairs.
2. All payments made after adoption of this ordinance pursuant to the PILOT agreement authorized under Ordinance 4399 are to be deposited into this newly created Affordable Housing – Senior Repairs fund.
3. Other ordinances, as may be passed from time to time, may also contribute funds to this newly created Affordable Housing – Senior Repairs fund.
4. The fund shall only be used for the purposes of furthering affordable housing or the subsidizing of senior home repair within the City of Michigan City and shall be utilized for no other purpose at any time during its existence.

This Ordinance is to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

**INTRODUCED BY:** /s/ Tracie Tillman, Member  
Michigan City Common Council

/s/ Angie Nelson Deutch, Member  
Michigan City Common Council

/s/ Paul Przybylinski, Member  
Michigan City Common Council

/s/ Don Przybylinski, Member  
Michigan City Common Council

/s/ Bryant Dabney, Member  
Michigan City Common Council

/s/ Dalia Zygas, Member  
Michigan City Common Council

/s/ Michael Mack, Member  
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 15<sup>th</sup> day of August, 2023 by a vote of 9 to 0.

/s/ Sean Fitzpatrick, President  
Michigan City Common Council

**Approved**/Vetoed by me, this 16<sup>th</sup> day of August, 2023.

/s/ Duane Parry, Mayor  
City of Michigan City, Indiana

ATTEST:

/s/ Gale A. Neulieb, Clerk  
City of Michigan City, Indiana

*Prepared by Harris Law Firm, P.C. Upon Request*