

ORDINANCE #1293

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND THE CODE OF ORDINANCES OF THE CITY OF LANSING BY ADDING A NEW SECTION 884.____ FOR THE PURPOSES OF PROVIDING FOR AN EXTENSION OF A SERVICE CHARGE IN LIEU OF TAXES FOR NINETY-EIGHT (98) LOW INCOME ELDERLY DWELLING UNITS IN A PROJECT KNOWN AS THE PORTER, PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, AS AMENDED.

THE CITY OF LANSING ORDAINS:

SECTION 1. THAT CHAPTER 884 OF THE CODE OF ORDINANCES OF THE CITY OF LANSING, MICHIGAN BE AMENDED TO ADD A NEW SECTION 884.____ TO READ AS FOLLOWS:

884.____ THE PORTER

(A) *PURPOSE.* IT IS ACKNOWLEDGED THAT IT IS A PROPER PUBLIC PURPOSE OF THE STATE AND ITS POLITICAL SUBDIVISIONS TO PROVIDE HOUSING FOR ITS RESIDENTS OF LOW AND MODERATE 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 OF 1966, BEING PUBLIC ACT 346 OF 1966, AS AMENDED [MCL 125.1401, ET SEQ.]. THE CITY IS AUTHORIZED BY SUCH 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 SUCH ACT AT ANY AMOUNT IT CHOOSES, NOT TO EXCEED THE TAXES THAT WOULD BE PAID BUT FOR THE ACT. IT IS FURTHER ACKNOWLEDGED THAT SUCH HOUSING FOR ELDERLY PERSONS OF LOW AND MODERATE INCOME IS A PUBLIC NECESSITY, AND AS THE CITY WILL BE BENEFITED AND IMPROVED BY SUCH HOUSING, THE ENCOURAGEMENT OF THE SAME BY PROVIDING CERTAIN REAL ESTATE TAX EXEMPTION FOR SUCH HOUSING IS A VALID PUBLIC PURPOSE.

(B) *DEFINITIONS.*

- (1) "ACT" MEANS THE STATE HOUSING DEVELOPMENT AUTHORITY ACT, BEING PUBLIC ACT 346 OF 1966, AS AMENDED.
- (2) "ANNUAL SHELTER RENTS" MEANS THE TOTAL COLLECTIONS DURING AN AGREED ANNUAL PERIOD FROM ALL ELDERLY PERSONS OF LOW OR MODERATE INCOME, OCCUPYING THE HOUSING DEVELOPMENT REPRESENTING RENTS FOR OCCUPANCY, WHICH RENTAL AMOUNTS SHALL BE EXCLUSIVE OF CHARGES FOR GAS, ELECTRICITY, HEAT, STEAM OR OTHER UTILITIES FURNISHED TO THE OCCUPANTS.
- (3) "AUTHORITY" MEANS THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY.
- (4) "ELDERLY PERSON(S)" MEANS (i) A SINGLE PERSON WHO IS 55 YEARS OF AGE OR OLDER OR A HOUSEHOLD IN WHICH AT LEAST ONE MEMBER

IS 55 YEARS OF AGE OR OLDER OR (ii) A PERSON WITH DISABILITIES, A DISABLED FAMILY, OR DISPLACED FAMILY ALL AS DEFINED IN 24 CFR 5.403.

- (5) "*HOUSING DEVELOPMENT* " OR " *DEVELOPMENT*" MEANS A DEVELOPMENT WHICH CONTAINS A SIGNIFICANT ELEMENT OF HOUSING FOR ELDERLY PERSONS OF LOW AND MODERATE INCOME AND SUCH ELEMENTS OF OTHER HOUSING, COMMERCIAL, RECREATIONAL, INDUSTRIAL, COMMUNAL AND EDUCATIONAL FACILITIES AS THE AUTHORITY MAY DETERMINE WILL IMPROVE THE QUALITY OF THE DEVELOPMENT AS IT RELATES TO HOUSING FOR ELDERLY PERSONS OF LOW AND MODERATE INCOME. FOR THE PURPOSE OF THIS SECTION, THE NAME OF THIS DEVELOPMENT IS THE PORTER, AND IS LEGALLY DESCRIBED AS FOLLOWS:

Land Situated in the State of Michigan, County of Ingham, City of Lansing.

That part of Lots 7, 8, 9, 10, 11 and 12, Block 148, ORIGINAL PLAT Of THE CITY OF LANSING, Ingham County, Michigan, as recorded in Liber 2, Page 36 of Plats, Ingham County Records, described as: Beginning at the Northwest corner of Lot 12, Block 148; thence North 89 degrees 56 minutes 49 seconds East 122.52 feet on the North line of Block 148; thence South 00 degrees 04 minutes 36 seconds West 90.00 feet on a line 17.0 feet East of the East wall of the existing apartment building; thence South 47 degrees 31 minutes 21 seconds West 6.64 feet; thence South 00 degrees 04 minutes 36 seconds West 72.0 feet; thence South 89 degrees 49 minutes 35 seconds East 4.09 feet; thence South 00 degrees 04 minutes 37 seconds West 163.16 feet to the South line of Lot 8; thence North 89 degrees 59 minutes 02 seconds West 22.00 feet; thence South 00 degrees 16 minutes 09 seconds West 65.88 feet to the South line of Lot 7; thence South 89 degrees 56 minutes 24 seconds West 36.00 feet; thence North 00 degrees 09 minutes 48 seconds East 66.27 feet to the South line of Lot 8; thence South 89 degrees 42 minutes 06 seconds West 63.15 feet to the West line of Block 148; thence North 00 degrees 00 minutes 00 seconds East 329.51 feet on the West line of Block 148 to the point of beginning.

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- (6) "*HUD*" MEANS THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OF THE UNITED STATES GOVERNMENT.
- (7) "*LOW INCOME HOUSING TAX CREDIT PROGRAM*" MEANS THE PROGRAM ESTABLISHED BY SECTION 42 OF THE UNITED STATES INTERNAL REVENUE CODE.
- (8) "*LOW OR MODERATE INCOME*" MEANS LOW OR MODERATE INCOME ELIGIBILITY UNDER THE AUTHORITY ACT OR RULES.
- (9) "*MORTGAGE LOAN*" MEANS A FEDERALLY-AIDED LOAN TO BE MADE BY A PRIVATE ENTITY OR A FEDERALLY-AIDED LOAN INSURED BY HUD, OR

A LOAN FROM THE AUTHORITY FOR THE FINANCING OF THE PURCHASE OR REHABILITATION OF THE HOUSING DEVELOPMENT.

- (10) "SPONSOR" MEANS A PERSON OR OTHER ENTITY WITH A HOUSING DEVELOPMENT WHICH IS FINANCED OR ASSISTED PURSUANT TO THE ACT. FOR PURPOSES OF THIS SECTION, THE SPONSOR OF THE PORTER IS THE PORTER LIMITED HOUSING ASSOCIATION LIMITED PARTNERSHIP, OR ITS SUCCESSORS OR ASSIGNS.
 - (11) "UTILITIES" MEANS FUEL, WATER, HEAT, STEAM, SANITARY SEWER AND/OR ELECTRICAL SERVICE, WHICH IS PAID FOR BY THE HOUSING DEVELOPMENT, AS DEFINED IN THE ACT.
 - (12) OTHER TERMS. ALL TERMS REFERENCING THE ACT BUT NOT DEFINED IN THIS SECTION SHALL HAVE THE SAME MEANING GIVEN IN THE ACT.
- (C) *ESTABLISHMENT OF ANNUAL SERVICE CHARGE.*
- (1) THE CITY ACKNOWLEDGES THAT THE SPONSOR AND THE AUTHORITY HAVE ESTABLISHED THE ECONOMIC FEASIBILITY OF THE PORTER IN RELIANCE UPON THE ENACTMENT AND CONTINUING EFFECT OF THIS SECTION AND UPON THE QUALIFICATION OF THE NINETY-EIGHT (98) UNITS OF ELDERLY HOUSING IN THE HOUSING DEVELOPMENT FOR EXEMPTION FROM ALL PROPERTY TAXES AS ESTABLISHED IN THIS SECTION.
 - (2) SUBJECT TO THE CONDITIONS AND REQUIREMENTS OF THIS SECTION AND THE ACT, THE NINETY-EIGHT (98) UNITS IN THE ELDERLY HOUSING DEVELOPMENT FOR PERSONS OF LOW AND MODERATE INCOME IDENTIFIED AS THE PORTER SENIOR APARTMENTS AND THE PROPERTY ON WHICH THEY ARE CONSTRUCTED SHALL BE EXEMPT FROM ALL PROPERTY TAXES FOR FORTY (40) YEARS, COMMENCING WITH THE FIRST YEAR OF EXEMPTION AS SET FORTH IN PARAGRAPH (C)(4) HEREOF.
 - (3) IN LIEU OF ALL SAID PROPERTY TAXES ON THE NINETY-EIGHT (98) UNITS IN THE ELDERLY HOUSING DEVELOPMENT, THE SPONSOR SHALL PAY, AND THE CITY WILL ACCEPT, AN ANNUAL SERVICE CHARGE FOR PUBLIC SERVICES IN THE SUM EQUAL TO FOUR PERCENT (4%) OF THE ANNUAL SHELTER RENTS ACTUALLY COLLECTED, LESS THE ANNUAL AMOUNT OF UTILITIES PAID DURING THE SAME PERIOD.
 - (4) THE EXEMPTION PROVIDED UNDER THIS SECTION SHALL RESCIND AND REPLACE ANY PRIOR EXEMPTIONS AND SHALL COMMENCE EFFECTIVE ON JANUARY 1 OF THE CALENDAR YEAR FOLLOWING THE YEAR IN WHICH THE SPONSOR ENTERS INTO A NEW MORTGAGE LOAN WITH THE AUTHORITY AND COMPLIES WITH SECTION 15A(1) OF 1966 PA 346, AS AMENDED, CODIFIED AS MCL 125.1415(a)(1), WHICH PROVIDES: THE OWNER OF A HOUSING PROJECT ELIGIBLE FOR THE EXEMPTION SHALL FILE WITH THE LOCAL ASSESSING OFFICER (THE CITY ASSESSOR) A NOTIFICATION OF THE EXEMPTION, WHICH SHALL BE IN AN AFFIDAVIT FORM AS PROVIDED BY THE AUTHORITY. THE COMPLETED AFFIDAVIT FORM FIRST SHALL BE SUBMITTED TO THE AUTHORITY FOR CERTIFICATION BY THE AUTHORITY THAT THE PROJECT IS ELIGIBLE

FOR THE EXEMPTION. THE OWNER THEN SHALL FILE, OR CAUSE TO BE FILED, THE CERTIFIED NOTIFICATION OF THE EXEMPTION WITH THE LOCAL ASSESSING OFFICER BEFORE NOVEMBER 1 OF THE YEAR PRECEDING THE TAX YEAR IN WHICH THE EXEMPTION IS TO BEGIN.

- (5) IN ADDITION TO THE CERTIFICATION REQUIRED PURSUANT TO SUBSECTION (C)(4), THE SPONSOR SHALL PROVIDE FOR THE HOUSING DEVELOPMENT ANNUALLY IN WRITING TO THE CITY ASSESSOR FOR THE PRECEDING YEAR IN WHICH THE PROPERTY TAX EXEMPTION WAS IN EFFECT:
 - A. THE ANNUAL AUDITED ACCOUNTING REPORT FOR THE PAYMENT IN LIEU OF TAXES; AND
 - B. A CERTIFIED STATEMENT IDENTIFYING ALL THE UNITS RENTED TO ELDERLY PERSONS OF LOW OR MODERATE INCOME; AND
 - C. IF REQUESTED BY THE CITY, PROOF THAT THE HOUSING DEVELOPMENT UNITS HAVE NOT INCREASED, DECREASED, OR BEEN ALTERED IN ANY MATERIAL FORM, WITH THE EXCEPTION OF UPGRADES, LIKE KIND REPLACEMENTS OR REPAIRS NEEDED IN THE ORDINARY COURSE OF BUSINESS, UNLESS THE CITY HAS OTHERWISE AMENDED THE PROVISIONS OF THIS SECTION.
- (D) *LIMITATION ON THE PAYMENT OF THE ANNUAL SERVICE CHARGE.* NOTWITHSTANDING SUBSECTION (C), THE SERVICE CHARGE TO BE PAID EACH YEAR IN LIEU OF TAXES FOR THE RENTAL HOUSING UNITS OF THE HOUSING DEVELOPMENT PROJECT THAT IS TAX EXEMPT AND OCCUPIED BY RESIDENTS OTHER THAN LOW OR MODERATE INCOME ELDERLY PERSONS SHALL BE EQUAL TO THE FULL AMOUNT OF THE TAXES THAT WOULD OTHERWISE BE DUE AND PAYABLE ON THAT PORTION OF THE HOUSING DEVELOPMENT PROJECT IF THE PROJECT WERE NOT TAX EXEMPT.
- (E) *PAYMENT OF ANNUAL SERVICE CHARGE.* THE SERVICE CHARGE IN LIEU OF TAXES, AS ESTABLISHED UNDER THIS SECTION, 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 YEAR, EXCEPT THAT THE ANNUAL PAYMENT SHALL BE MADE ON OR BEFORE JULY 1 OF THE YEAR FOLLOWING THE YEAR UPON WHICH SUCH CHARGE IS CALCULATED. COLLECTION PROCEDURE SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE GENERAL PROPERTY TAX ACT (1893 PA 206, AS AMENDED; MCL 211.1, ET SEQ.).
- (F) *CONTRACTUAL EFFECT.* 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 PAYMENT IN LIEU OF TAXES AS PREVIOUSLY DESCRIBED, IS EFFECTUATED BY THE ENACTMENT OF THIS SECTION.
- (G) *COMMENCEMENT AND DURATION.* THE PROPERTY TAX EXEMPT STATUS OF THE HOUSING DEVELOPMENT PROJECT ACKNOWLEDGED BY THIS

AGREEMENT SHALL REMAIN IN EFFECT AND SHALL NOT TERMINATE SO LONG AS THE MORTGAGE LOAN FOR THE HOUSING DEVELOPMENT PROJECT REMAINS OUTSTANDING AND UNPAID, BUT NOT TO EXCEED FORTY (40) YEARS FOLLOWING THE YEAR IN WHICH THE EXEMPTION COMMENCES HEREUNDER, PROVIDED THAT THE SPONSOR COMPLIES WITH THE REQUIREMENTS OF THE ACT AND THIS SECTION, AND FURTHER PROVIDED THAT THE HOUSING DEVELOPMENT CONTINUES TO BE RENTED TO LOW OR MODERATE INCOME ELDERLY PERSONS AT RENTS DETERMINED UNDER THE LOW INCOME HOUSING TAX CREDIT PROGRAM OR AS DETERMINED BY THE HAP CONTRACT, AS THE SAME MAYBE FURTHER AMENDED OR SUPERSEDED, OR THERE IS AN AUTHORITY-AIDED OR FEDERALLY-AIDED MORTGAGE ON THE HOUSING DEVELOPMENT AS PROVIDED IN THE ACT, OR THE AUTHORITY OR HUD HAS AN INTEREST IN THE PROPERTY. IF (A) THE REHABILITATION OF THE HOUSING DEVELOPMENT PROJECT DOES NOT COMMENCE OR THE SPONSORS FAIL TO OBTAIN A MORTGAGE LOAN WITHIN TWO (2) YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, OR (B) IF TRANSFER OF TITLE IS NOT EFFECTUATED TO THE PORTER LIMITED HOUSING ASSOCIATION LIMITED PARTNERSHIP WITHIN TWO (2) YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE, OR (C) IF THE SPONSORS CHANGE THE SCOPE OR PURPOSE OF THE NINETY-EIGHT (98) UNITS OF HOUSING WITHIN THE HOUSING DEVELOPMENT PROJECT WITHOUT THE CONSENT OF THE CITY, BY AND THROUGH ITS REPRESENTATIVES, AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE LANSING CITY CHARTER, AND THE SPONSOR OR OTHER RESPONSIBLE PARTY DOES NOT CURE THE VIOLATION WITHIN NINETY (90) DAYS AFTER WRITTEN NOTICE IS GIVEN TO THE SPONSOR, THEN THIS ORDINANCE SHALL AUTOMATICALLY EXPIRE, TERMINATE AND BE OF NO FURTHER EFFECT.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed as they pertain to the Porter, as contemplated herein.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be valid.

Section 4. This ordinance shall take effect on the 30th day after enactment unless given immediate effect by the City Council.