

CHARTER TOWNSHIP OF UNION
Isabella County, Michigan
Ordinance Number 2012-09

801.001 TITLE.

Charter Township of Union Tax Exemption Ordinance as provided by the State Housing Development Act.

An ordinance to provide for a service charge in lieu of taxes for a multiple family dwelling project for persons of low to moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

The Charter Township of Union, Isabella County, Michigan, Ordains:

SECTION I

This Ordinance shall be known as the “Northwinds Apartments LDHA tax Exemption Ordinance.”

SECTION II - PREAMBLE

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 to 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 (1966 PA 346, as amended, MCLA Section 125.1401 et.seq., MSA Section 16.114 (1) et.seq.) The Township 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 persons of low to moderate income is a public necessity, and as the Township 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; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The Township acknowledges that Northwinds Apartments Limited Dividend Housing Association Limited Partnership (the “Sponsor”) has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC), to erect, own, and operate a housing development identified as Huntington Place on certain property located at 3166, 3176, 3220 and 3230 E. Deerfield Road, in the Township to serve persons of low to moderate income, and that the Sponsor has offered to pay to the Township on account of this Housing Development in annual service charge for public services in lieu of all taxes.

SECTION III – DEFINITIONS

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, of the State of Michigan, as amended, except as follows:

(A) *Act* means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.

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

(C) *Authority* means the Michigan State Housing Development Authority.

(D) *Housing Development* mean a development which contains a significant element of housing for person of low 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 person of low income.

(E) *Elderly* means a single person who is fifty-five (55) years of age or older or a household in which at least one (1) member is fifty-five (55) years of age and all other members are fifty (50) years of age or older.

(F) *Sponsor* means persons or entities which have applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.

(G) *Utilities* mean fuel, water, sanitary sewer and electrical service which are paid by the Housing Development.

SECTION IV - CLASS OF HOUSING DEVELOPMENTS

It is 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 taxes shall be housing developments for elderly persons and persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that Northwinds Apartments is of this class.

SECTION V – ESTABLISHMENT OF ANNUAL SERVICE CHARGE

The Housing Development identified as Northwinds Developments to which the tax exemption shall be constructed shall be exempt from all property taxes from and after the year the project is placed in service as evidenced by a certificate of occupancy from the appropriate public officials. The Township acknowledging 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 Ordinance and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes as established in this Ordinance, and in consideration of the Sponsor's offer, subject to receipt of an allocation under the LIHTC program, to construct, own and operate the Housing Development agrees

to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to ten percent (10%) of the Annual Shelter Rents actually collected.

SECTION VI – LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE

Notwithstanding Section V, the service charge to be paid each year in lieu of taxes for part of the Housing Development which is tax exempt and 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 Development if the Housing Development were not tax exempt.

The term “low income person or families” as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

SECTION VIII – PAYMENT OF SERVICE CHARGE

The service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes except that the estimated annual payment shall be paid on or before December 31 of each year. The sponsor shall submit a statement from its independent auditor verifying the amounts used to compute the payment are correct as reported. The statement and supporting documents which may be from the sponsor’s federal tax return shall be due by February 28 following the tax year. Any adjustment in payment (from the estimated payment) shall be made on that date. Any claim for overpayment will be adjusted in the next December 31 payment due.

SECTION IX – DURATION

This ordinance shall remain in effect until December 31, 2028, so long as the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

SECTION X – REPEAL AND AMENDMENT

The Township of Union may repeal and/or amend this ordinance subject to the provisions of the Act.

SECTION XI – TERMINATION

Notwithstanding anything contained herein to the contrary, should the sponsor fail to pay the final adjusted service charge in lieu of taxes granted hereunder or fail to provide the verification of the calculations used to make the payment, the Township of Union shall file a certificate of nonpayment upon the Sponsor of the Housing Development and the Authority by certified mail, with the Register of Deeds of Isabella County. Following the expiration of sixty (60) days after service upon the Sponsor and the Authority of a certificate of nonpayment, if payment and supporting documentation has not been made within the intervening sixty (60) days, the service charge in lieu of taxes granted by this ordinance shall automatically be terminated, retroactive to January 1 of that year.

SECTION XII – SEVERABILITY

The various sections and provisions of this Ordinance shall be deemed to be severable, 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 the 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.

SECTION XIII – ACKNOWLEDGMENT

The Township hereby acknowledges receipt of documentation from the authority indicating that the authority’s participation with the Housing Development is limited solely to the allocation of tax credits under the Low Income Housing Tax Credit Program.

SECTION XIV – EFFECTIVE DATE

This Ordinance shall become effective on _____, or as otherwise provided in the Charter. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict. Made and passed by the Township Board of the Charter Township of Union, Isabella County, Michigan on this _____ day of _____.

ADOPTED BY THE TOWNSHIP BOARD:

John Barker, Supervisor
Charter Township of Union Supervisor

STATE OF MICHIGAN)
) SS
COUNTY OF ISABELLA)

I, Peter Gallinat, the duly qualified and acting Clerk of Union Charter Township, Isabella County, Michigan, DO HEREBY CERTIFY that the foregoing Ordinance 2012-08 was adopted at a regular meeting of the Charter Township of Union Board of Trustees held on the ____ day of _____, 2012 at which meeting the following named members were present and voted in person:

Voting in favor of adoption:

Voting against adoption:

Certification Date

Peter Gallinat
Charter Township of Union Clerk

