

CHARTER TOWNSHIP OF UNION
ORDINANCE NUMBER 20-10
TAX EXEMPTION ORDINANCE

Please take notice that the Charter Township of Union Board of Trustees adopted a new Tax Exemption Ordinance Number 20-10 following a Second Reading at their regular meeting on December 16, 2020, held as an electronic meeting via video/telephone conference with notice and instructions for access posted at the Township Hall and on the Township website's homepage per the Open Meetings Act, Public Act 267 of 1976, as amended (MCL 15.261 to 15.272).

The First Reading of the proposed ordinance was held during the regular November 24, 2020 Board of Trustees meeting, also as an electronic meeting with notice and instructions for access posted per the Open Meetings Act. Following the First Reading, an ordinance summary and notice of the date, time, and place of the Second Reading was published in The Morning Sun newspaper and posted at the Township Hall as required by the Charter Township Act, Public Act 359 of 1947, as amended (MCL 42.1 et seq.).

A true copy of the adopted ordinance may be inspected or obtained by appointment upon request via telephone call to (989) 772-4600 during business hours at the Charter Township of Union office, 2010 South Lincoln Road, Mt. Pleasant, MI 48858, and at any time on the Township's website at <http://www.uniontownshipmi.com>. The following is a summary of the ordinance:

Section 1 (Title) establishes the title of the ordinance.

Section 2 (Preamble) confirms the public necessity of providing for an ad valorem tax exemption and payment in lieu of taxes to encourage development of low-income housing.

Section 3 (Class of Eligible Housing Projects) confirms the types of housing projects for low income persons and families that are eligible for action under this ordinance.

Section 4 (Tax Exempt Status Granted by Resolution) establishes that tax exempt status for an eligible housing project requires adoption of a resolution by the Board of Trustees.

Section 5 (Annual Service Charge) sets standards for calculating the annual service charge.

Section 6 (Payment of the Annual Service Charge and Documentation Requirements) establishes payment and associated documentation requirements and deadlines.

Section 7 (Distribution of the Annual Service Charge) confirms how the Township will distribute annual service charge payments to various taxing jurisdictions.

Section 8 (Duration) standardizes the tax exemption duration for eligible housing projects.

Section 9 (Contractual Effect of Ordinance and Resolution) states that an agreement is effectuated between the Township and housing project sponsor, with the State Housing Development Authority as third party beneficiary, by the adopted tax exemption resolution.

Section 10 (Ineligible Housing Projects) confirms that failure to maintain eligibility will result in placement of the property on the ad valorem property tax roll for the following tax year.

Section 11 (Audits; Inspection of Records) standardizes the housing project sponsor's obligations to the Township related to availability and inspection of records.

Section 12 (Definitions) defines certain terms used in the ordinance.

Section 13 (Severability) confirms that ordinance elements are severable as provided by law.

Section 14 (Repeal) confirms the repeal of existing ordinances that conflict with this ordinance.

Section 15 (Publication) confirms that state law publication requirements will be met.

Section 16 (Effective Date) establishes the ordinance effective date, based on adoption and publication requirements.

Publication of the adopted ordinance was made by this notice and posting of the true copy of the ordinance at the Charter Township of Union office and on the Township's website pursuant to Charter Township Act requirements. The ordinance is effective immediately upon publication of this notice.

**CHARTER TOWNSHIP OF UNION
ISABELLA COUNTY, MICHIGAN**

TAX EXEMPTION ORDINANCE NO. 20-10

[An ordinance adopted under provisions of the State Housing Development Authority Act (Public Act 346 of 1966, as amended, being MCL 125.1401 et seq.) and Charter Township Act (Public Act 359 of 1947, as amended, being MCL 42.1 et seq.) to provide for an ad valorem property tax exemption and payment of an annual service charge in lieu of taxes for housing projects for low income persons and families financed with a federally-aided or Michigan State Housing Development Authority-aided mortgage loan or an advance or grant from the Authority under the State Housing Development Authority Act; and to provide for severability, repeal, publication, and an effective date.]

CHARTER TOWNSHIP OF UNION, ISABELLA COUNTY, MICHIGAN HEREBY ORDAINS:

Section 1. Title.

This Code shall be known as the “Tax Exemption Ordinance” and may be cited as such and will be referred to herein as “this Ordinance.”

Section 2. Preamble.

It is acknowledged that housing for persons and families of low income is a public necessity, and that the Township and its residents will be benefited and improved by such housing. It is further acknowledged that it is a proper public purpose of the State of Michigan and the Township to provide housing for low income persons and families and to encourage the development of such housing by providing for an ad valorem property tax exemption and payment of an annual service charge in lieu of taxes by any or all classes of housing exempt from taxation under the State Housing Development Authority Act. The Township is authorized by this Act to establish or change this annual service charge at any amount it chooses, not to exceed the tax that would be paid but for this Act. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and payment of an annual service charge in lieu of taxes during the periods contemplated in this Ordinance are essential to the determination of economic feasibility of housing projects that are constructed or rehabilitated with financing extended in reliance on a tax exemption.

Section 3. Class of Eligible Housing Projects.

It is determined that the class of housing projects to which the tax exemption and payment of an annual service charge in lieu of taxes apply shall be housing projects for low income persons and families that are financed through the LIHTC program or by a federally-aided or Authority-aided mortgage. A housing project within this eligible class and the property on which it is or will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation, subject to continuing compliance with the requirements of this Ordinance, including an adopted Board of Trustees resolution granting tax exempt status. The Township will accept payment of an annual service charge in lieu of taxes for this class of housing projects.

Section 4. Tax Exempt Status Granted by Resolution.

Adoption of a resolution by the Board of Trustees shall be required to grant tax exempt status under this Ordinance for an eligible housing project. A resolution of the Board of Trustees granting tax exempt status and establishing the annual service charge, as provided in this Ordinance, shall be adopted for each

housing project qualified under the terms and provisions of this Ordinance. At a minimum, the resolution shall include the following required information:

- A. Acknowledgment that the housing project qualifies for exemption from all ad valorem property taxes and a payment of an annual service charge in lieu of taxes under the requirements of the State Housing Development Authority Act and this Ordinance.
- B. Location of the housing project, including parcel identification number(s), address(es), legal description(s), and total land area subject to the resolution.
- C. Name(s), address(es), and contact information for the sponsor.
- D. The annual service charge percentage of the annual shelter rents or contract rents collected by the housing project during each operating year.
- E. The duration period of the tax exemption and acceptance of payments of an annual service charge in lieu of taxes for the housing project, if different from Section 8 of this Ordinance.
- F. Other conditions consistent with the requirements of this Ordinance and applicable state laws.

Section 5. Annual Service Charge.

The amount to be paid as an annual service charge shall be subject to the following requirements:

- A. For new housing construction, the annual service charge shall be equal to the greater of:
 - (1) The tax on the property on which the eligible housing project is located for the tax year before the date when construction of the project was commenced; or
 - (2) The percentage of the annual shelter rents or contract rents collected by the housing project during the calendar year established by the Board of Trustees resolution.
- B. For existing housing rehabilitation, the annual service charge shall be equal to the lesser of:
 - (1) The tax on the property on which the project is located for the tax year before the date when rehabilitation of the project was commenced; or
 - (2) The percentage of the annual shelter rents or contract rents collected by the housing project during the calendar year established by the Board of Trustees resolution.
- C. For eligible housing projects where the costs of municipal water and municipal sewer services provided by the Township's Public Services Department are included in the rental rate, the documented annual cost for these services may be deducted from the total annual shelter rent or contract rent collected by the housing project during the calendar year prior to calculating the annual service charge.
- D. For any eligible housing project or part thereof that is tax exempt but which is occupied by other than low income persons or families, the annual service charge shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

Section 6. Payment of the Annual Service Charge and Documentation Requirements.

The annual service charge payment for each operating year shall be paid to the Township and associated documentation provided in accordance with the following requirements:

- A. Before November 1, the sponsor shall provide to the Township's Community and Economic Development Director a copy of the signed and executed Verification of Continuing Eligibility of

Exemption or equivalent documentation from the Authority to demonstrate that the housing project and sponsor remain in compliance with Authority requirements for the calendar year.

- B. On or before the second Monday in December, the sponsor shall provide to the Township's Community and Economic Development Director a written estimate of the anticipated annual service charge for the calendar year, and shall provide the corresponding documentation for the data and method used in the calculations.
- C. On or before the second Monday in February, the sponsor shall provide payment to the Township of the annual service charge for the prior calendar year, along with an audited written record of the data and method used in the final calculations.
- D. The Township shall accept payment of the annual service charge in the same manner as general property taxes are payable to the Township.
- E. Collection procedures shall be in accordance with the provisions of the General Property Tax Act.

Section 7. Distribution of the Annual Service Charge.

The annual service charge shall be distributed to the several units levying the general property taxes in the same proportion as prevailed with the general property taxes in the previous calendar year.

Section 8. Duration.

The tax status of a housing project for a tax year shall be determined as of December 31 of the immediately preceding year in accordance with the requirements of the General Property Tax Act. The tax exempt status of a housing project shall begin at the start of the tax year following the commencement of construction or rehabilitation of the housing project, and shall remain in effect and shall not terminate as long as the sponsor continues to conform to the requirements of this Ordinance and the adopted resolution and one of the following conditions exist for the housing project:

- A. The property is encumbered by a federally aided or Authority-aided mortgage with a remaining unpaid balance; or
- B. The housing project remains subject to income and rent restrictions as regulated by the Authority under the requirements of the State Housing Development Authority Act.

Section 9. Contractual Effect of Ordinance and Resolution.

Notwithstanding the provisions of Section 15(a)(5) of the State Housing Development Authority Act to the contrary, in the case of a housing project receiving an Authority-financed mortgage loan, an agreement between the Township and the sponsor, with the Authority as third party beneficiary under the agreement, is effectuated by the adoption of a resolution by the Board of Trustees to provide for a tax exemption and acceptance of payment of an annual service charge in lieu of taxes.

By adopting a resolution under the terms of this Ordinance, the Board of Trustees acknowledges that the sponsor and the Authority, in the case of a sponsor receiving an Authority-financed mortgage loan, or the sponsor and the mortgage lender, in the case of a sponsor receiving a federally-aided mortgage loan, have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for the tax exemption and payment of an annual service charge in lieu of taxes.

Section 10. Ineligible Housing Projects.

It is determined that the class of ineligible housing projects under this Ordinance shall be any otherwise

eligible housing project for which the sponsor has failed to provide payment of an annual service charge in lieu of taxes and all required documentation in compliance with this Ordinance and the adopted Board of Trustees resolution, failed to maintain the housing project's exemption eligibility, or otherwise failed to conform to the requirements of this Ordinance and the adopted resolution. Ineligible housing projects shall be placed on the ad valorem property tax roll for the following tax year by the Township Assessor.

Section 11. Audits; Inspections of Records.

Subject to the limitations imposed by law, the sponsor shall provide the Township such accounting records, audits, and financial reports as the Township shall reasonably require to verify the computation of the annual service charge as provided by this Ordinance. Subject to any limitations imposed by law, the books and records of the sponsor pertaining to the housing project shall be available for review and audit by the Township at all reasonable times.

If requested records, audits or financial reports are not yet available, the sponsor shall respond with a date by which the material will be provided to the Township. Electronic submittal in formats compatible with Township systems is acceptable.

Section 12. Definitions.

Ad Valorem is a Latin phrase that means "according to value."

Annual Service Charge means a payment calculated and made each year to the Township for public services by or on behalf of any housing project exempt from taxation under the State Housing Development Authority Act.

Authority means the Michigan State Housing Development Authority.

Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of the costs of municipal water and municipal sewer services provided by the Township's Public Services Department where such costs are included in the rental rate.

Contract Rents means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of the costs of municipal water and municipal sewer services provided by the Township's Public Services Department where such costs are included in the rental rate.

General Property Tax Act means Public Act 206 of 1893, as amended, being MCL 211.1, et seq.

General Property Taxes (see **Tax**).

Low Income Persons and Families means persons and families eligible to move into a housing project.

Mortgage Loan means a loan that is federally-aided (as defined in Section 11 of the State Housing Development Authority Act) or a loan or grant made or to be made by the Authority for the construction, rehabilitation, acquisition or permanent financing of a housing project, and secured by a mortgage on the housing project.

Sponsor means any persons or entities that receive or assume a mortgage loan.

State Housing Development Authority Act means Public Act 346 of 1966, as amended, being MCL 125.1401 et seq.

Tax, Taxes or Taxation all refer to ad valorem property taxes imposed by the State of Michigan or by

any political subdivision of the State, including both real property and personal property as defined in the General Property Tax Act.

Township means the Charter Township of Union.

Section 13. Severability.

The provisions, sections, sentences and phrases of this Ordinance are declared to be severable and if any such portion is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such finding shall in no way affect or invalidate the remainder of this Ordinance.

Section 14. Repeal.

- A. Ordinance No. 1997-5 (Ad Valorem Tax Exemption [for a parcel that never developed with housing]), Ordinances No. 2003-09 and 2018-02 (Tax Exemption – Arbors at Eagle Crest, Second Phase), Ordinance No. 2004-03 (Tax Exemption – Springbrook Townhomes [Phase I]), Ordinance No. 2005-02 (Tax Exemption – Springbrook Townhomes Phase II), Ordinance No. 2006-02 (Tax Exemption – Cranbrook Senior Village), Ordinance No. 2012-09 (Northwinds Apartments LDHA Tax Exemption Ordinance), and Ordinance No. 2016-01 (Crisis Center, Inc. d.b.a Listening Ear Crisis Center LDHA Tax Exemption Ordinance) shall remain in effect until 11:59 p.m. on December 31, 2020, at which time these ordinances shall be repealed and of no further effect.
- B. Ordinance No. 2000-01 (Tax Exemption Ordinance for the Sterling Group [Arbors at Eagle Crest – Phase I]) and Ordinance No. 2017-01 (Tax Exemption Ordinance for the LARC Community Development Group [Arbors at Eagle Crest – Phase I]) shall remain in effect until 11:59 p.m. on December 31, 2021, at which time these ordinances shall be repealed and of no further effect. Notwithstanding anything to the contrary, this Ordinance shall not repeal Ordinances 2000-01 and 2017-01 until 11:59 p.m. on December 31, 2021.
- C. Except as outlined in subsections 14.A. and 14.B. above, all other ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 15. Publication.

The Clerk for the Township shall cause this Ordinance to be published in the manner required by law.

Section 16. Effective Date.

This Ordinance was approved and adopted by the Township Board of Trustees, Isabella County, Michigan, on December 16, 2020 after a first reading by the Township Board of Trustees on November 24, 2020 and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall become effective immediately upon publication of a summary of the ordinance and notice of adoption in a newspaper of general circulation in the Township, following adoption by the Township Board of Trustees.

CERTIFICATION OF ADOPTION AND PUBLICATION OF TOWNSHIP ORDINANCE

I, Lisa Cody, the duly elected Clerk of the Charter Township of Union, Isabella County, Michigan, hereby certify that the foregoing Ordinance was adopted at a meeting of the Charter Township of Union Board of Trustees on the sixteenth day of December, 2020, at which the following named members of the Charter Township of Union Board of Trustees were present and voted in person as follows:

(a) Voting in favor of the Ordinance: _____

(b) Voting against adoption of the Ordinance: _____

I further certify that a summary and notice of adoption of this Ordinance were published in the Morning Sun, a newspaper of general circulation within the Charter Township of Union on the _____ day of _____, 2020 and that proof of same is filed in the Charter Township of Union Ordinance Book.

Certification Date: _____, 2020

Lisa Cody, Clerk

I, Bryan Mielke, the duly elected Supervisor of the Charter Township of Union, Isabella County, Michigan, hereby confirm the authenticity of this record and Ordinance.

Bryan Mielke, Supervisor

Date: _____, 2020