

ADOPTED ORDINANCE
CITY OF YPSILANTI
Ordinance No. 1270

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with an Authority-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et seq) (the "Act").

THE CITY OF YPSILANTI ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the "Ypsilanti Tax Exemption Ordinance-Riverwalk Commons."

SECTION 2. 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 low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City 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 low income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Riverwalk Commons on certain property located at the future intersection of River Street and Michigan Avenue in the City of Ypsilanti, County of Washtenaw, State of Michigan, and legally described as (the "Project"):

A 3.60 ACRE PARCEL IN THE NE 1/4 OF SECTION 9, OF CITY OF YPSILANTI, YPSILANTI TOWNSHIP, WASHTENAW COUNTY, MICHIGAN.

Commencing at the East 1/4 corner of Section 9, T3S, R7E, Ypsilanti Township, Washtenaw County, Michigan; thence N02°19'08"W 554.44

feet along the East line of said Section 9 and the Centerline of Prospect Road (66.00 feet wide); thence the following four (4) courses along the Centerline of Michigan Avenue (99 feet wide): 1) 111.24 feet along the arc of a 999.34 foot radius circular curve to the right, with a central angle of 06°22'39", having a chord which bears S88°47'02"W 111.18 feet, 2) thence N88°01'38"W 382.04 feet, 3) thence N87°56'38"W 597.06 feet and 4) thence N88°03'38"W 33.00 feet; thence S02°12'20"W 209.50 feet along the West Right of Way line of Park Street (66.00 feet wide) to the PLACE OF BEGINNING; thence continuing S02°12'20"W 86.82 feet; thence N88°04'15"W 282.50 feet; thence S02°29'28"W 167.28 feet; thence N88°04'02"W 299.00 feet; thence N02°22'02"E 414.18 feet; thence S88°03'47"E 350.41 feet along the South Right of Way line of said Michigan Avenue; thence S01°56'22"W 160.00 feet; thence S88°03'38"E 230.01 feet to the Place of Beginning, being a part of the NE 1/4 of said Section 9, containing 3.60 acres of land, more or less, and subject to easements and restrictions of record, if any.

The Project will serve low income persons and families, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

SECTION 3. Definitions.

A. Authority means the Michigan State Housing Development Authority.

B. 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 Utilities.

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

D. Mortgage Loan means a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of the housing project, and secured by a mortgage on the housing project.

E. Sponsor means Herman & Kittle Properties, Inc. and any entity that receives or assumes a Mortgage Loan.

F. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project. Phone, cable, internet, and television services are specifically not considered utilities.

SECTION 4. Class of Housing Projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan by the Authority. It is further determined that Riverwalk Commons is of this class.

SECTION 5. Establishment of Annual Service Charge.

The housing project identified as Riverwalk Commons and the property on which it will be located is subject to the Water Street Redevelopment Area Brownfield Plan, approved by the City of Ypsilanti City Council on December 16, 2014 with final adoption by the Washtenaw County Board of Commissioners on February 18, 2015. As authorized by the Brownfield Redevelopment Financing Act, P.A. 381 of the State of Michigan, as amended, and under the approved Brownfield Plan referenced above, an Act 381 Work Plan will be developed jointly between the City of Ypsilanti, the Sponsor, and the Washtenaw County Brownfield Authority, which will include all eligible brownfield activities to be reimbursed to the Sponsor. In addition, the Act 381 Work Plan will specify the total amount of Administrative Fees and Local Site Revolving Remediation Fund deposits to be paid to the Washtenaw County Brownfield Authority. This Act 381 Work Plan will then be approved by the State of Michigan. Following the completion of the reimbursement of all certified eligible brownfield expenses to the Sponsor by the Washtenaw County Brownfield Authority, and payment of any and all Administrative Fees and Local Site Revolving Remediation Fund deposits to the Washtenaw County Brownfield Authority, as specified in the above-referenced and approved Act 381 Work Plan, the Project shall be exempt from all ad valorem property taxes. The City acknowledges that the Sponsor and the Authority 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 exemption from all ad valorem property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to construct and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to ten percent (10%) of the Annual Shelter Rents actually collected by the housing project during each operating year.

SECTION 6. Contractual Effect of Ordinance.

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 payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

SECTION 7. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but 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 project if the housing project were not tax exempt.

Additionally, it is anticipated that a portion of the Project will be commercial space. This portion is not tax-exempt. This non-exempt portion of the Project may receive a separate tax identification number that will be different than that portion that is exempt. This ordinance will only apply to that portion of the Project that is exempt, and will not apply to that portion of the Project that is not tax-exempt.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance 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 calendar year. The annual payment for each operating year shall be paid on or before April 15th of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq).

SECTION 9. Duration.

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid and the housing project remains subject to income and rent restrictions under the Low Income Housing Tax Credit Program or HOME Investments Partnership Program. The exemption from all ad valorem property taxes established by this Ordinance shall terminate upon the re-financing or payoff of the Authority mortgage loan(s) or upon the sale of the Development.

SECTION 10. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable, and 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 this 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 11. Inconsistent Ordinances.

All ordinances, resolutions, or parts of ordinances or resolutions inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION 12. Copies to be available

Copies of the Ordinance are available at the office of the City Clerk for inspection by, and distribution to, the public during normal office hours.

SECTION 13. Publication and Effective Date.

The City Clerk shall cause this Ordinance, or a summary of this Ordinance, to be published according to Section 11.13 of the City Charter. This Ordinance shall become effective after publication at the expiration of 30 days after adoption.

MADE, PASSED AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS 17th
DAY OF May, 2016.

Andrew Hellenga, Deputy City Clerk

Attest

I do hereby confirm that the above Ordinance No. 1270 was published according to Section 11.13 of the City Charter on the 28th day of April, 2016.

Andrew Hellenga, Deputy City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the 17th day of May, 2016.

Andrew Hellenga, Deputy City Clerk

Notice Published: April 28, 2016

First Reading: May 10, 2016

Second Reading: May 17, 2016

Published: May 23, 2016

Effective Date: June 16, 2016