

**SOUTH HAVEN TOWNSHIP
ORDINANCE NO. 160**

**ORDINANCE TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR
DWELLING UNITS FOR LOW INCOME PERSONS AND FAMILIES
(LIGHTHOUSE RIDGE APARTMENTS)**

THE TOWNSHIP OF SOUTH HAVEN ORDAINS:

Section 1. Purpose.

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, MCL 125.1401, *et seq*)(the “Act”). The Township of South Haven is authorized by the Act to charge a service charge for a new construction project, an amount that is the greater of the tax on the property on which the project is located for the tax year preceding the date on which construction is commenced or 10% of the annual shelter rents obtained from the project and 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 the 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 persons of low to moderate income is a public necessity, and as the Township will be benefitted 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 Lighthouse Ridge Apartments (the “Sponsor”) has offered, subject to receipt of an allocation under the LIHTC Program from the Michigan State Housing Development Authority and or federally or authority aided financing for the project, to erect, own and operate a housing development identified as Lighthouse Ridge Apartments on certain property located at 09010 73rd Street, as legally described in “Exhibit A” in the Township of South Haven, to serve the low income persons and families, and that the Sponsor has offered to pay the Township on account of this housing development, an annual service charge for public services in lieu of all taxes.

Section 2. Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 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 or occupancy charges, exclusive of Utilities.

C. Authority means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.

D. Housing Development means a development which contains a significant element of housing for persons of low to moderate 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 housing for persons of low to moderate income.

E. LIHTC Program means the Low Income Housing Tax Credit Program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

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

G. Sponsor means Lighthouse Ridge Limited Dividend Housing Association, Limited Partnership, which has applied to the Authority for an allocation under the LIHTC Program to finance a Housing Development.

H. Utilities mean water, sanitary sewer service, trash, gas and/or electrical services which are paid by the Housing Development.

I. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or 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 a Housing Development, and secured by a mortgage on the Housing Development.

Section 3. Class of Housing Developments Exempt from Taxation.

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 such taxes shall be Housing Developments for low income persons and families that are financed with a Mortgage Loan, which are financed or assisted pursuant to the Act and is limited to the number of units allowable by zoning. It is further determined that Lighthouse Ridge Apartments is of this class. Passage of the ordinance from which this division is derived shall not be deemed precedent for other similar PILOT ordinances.

Section 4. Establishment of Annual Service Charge.

The Housing Development identified as Lighthouse Ridge Apartments, and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. 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 from which this division is derived, 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. Subject to the receipt of a Mortgage Loan, the annual service charge shall be equal to four percent (4%) of the Annual Shelter Rent actually collected for the housing project during each operating year, plus utilities.

Section 5. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the Township 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 from which this division is derived.

Section 6. 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 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.

Section 7. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the Township except that the annual payment shall be paid on or before August 15th, of each year. The Sponsor shall verify annual shelter rent revenues to the Township with a statement of profit and loss of the housing development as reported to the State Housing Development Authority by an independent certified public accountant. The statement of profit and loss, together with a statement showing how the service charge was calculated shall be submitted to the Township Treasurer by April 30th of each year. Any adjustment or claim for overpayment will be adjusted in the next year's payment.

Section 8. Duration.

This Ordinance shall remain in effect and shall not terminate so long as the Mortgage

Loan remains outstanding and unpaid and the Housing Development remains subject to income and rent restrictions under the LIHTC Program; and provided that construction of the Housing Development commences within thirty-six (36) months from the effective date of this Ordinance from which this division is derived. Notwithstanding the above, the exemption shall cease for that portion of the project which is not operated consistent with section 3 above.

Section 9. 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 service charge in lieu of taxes granted by the Ordinance shall automatically be terminated, retroactive to January 1 of that year. The Township shall file a Notice of Termination to the Sponsor of the Housing Development and the Authority, by certified mail, within thirty (30) days of such termination.

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 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 11. Inconsistent Ordinances.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 12. Effective Date

This Ordinance shall take effect immediately after publication.

Township Clerk

Dated: _____