

Introduced: December 19, 2022

Adopted:

Effective:

**CITY OF CHARLOTTE  
ORDINANCE NO. 2022-09**

AN ORDINANCE TO AMEND CHAPTER 64 TAX  
EXEMPTION BY REVOKING THE EXISTING DIVISION 3  
AND ADDING A NEW DIVISION 3 TO ESTABLISH A TAX  
EXEMPTION FOR RELATED AFFORDABLE, LLC, 535  
LANSING STREET, COMMONLY KNOWN AS BUTTERNUT  
CREEK APARTMENTS.

**SECTION 1. PURPOSE.** The City is authorized by State law to levy a service charge in lieu of property taxes for certain housing developments for individuals with low and moderate incomes. This ordinance amends City Code to establish a service charge in lieu of property taxes for a proposed family housing development at 535 Lansing Street by Related Affordable, LLC, Butternut Creek Preservation LDHA.

**SECTION 2.** Chapter 64, Division 3 PK Charlotte School LDHA LP Family Housing Development at 301 and 335 Horatio Street of the Code of Ordinances is hereby rescinded and replaced in its entirety as follows:

*Division 3.*

**64-21 IN GENERAL.**

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the Related Affordable, LLC, Butternut Creek Preservation LDHA family housing development at 535 Lansing Street."

**64-22 PREAMBLE.**

(A) 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) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. 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 is a public necessity, and as the city 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 provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed, rehabilitated and financed in reliance on such tax exemption.

(B) The city acknowledges that the Sponsor, as defined in this division, is a limited dividend housing association limited partnership and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program and a Housing Assistance Payment Contract with the Federal Department of Housing and Urban Development to rehabilitate, own and operate the proposed Housing Rehabilitation Project at 535 Lansing Street in the City to serve Low Income Persons, as defined herein, and that the Sponsor has offered to pay the City on account of this Housing Rehabilitation an annual service charge for public services in lieu of all ad valorem property taxes.

#### **64-23 DEFINITIONS.**

**ACT.** The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

**ANNUAL SHELTER RENT.** The total collections during an agreed annual period from or paid on behalf of all Low-Income Persons, as defined herein of the Housing Development Project representing rent or occupancy charges, exclusive of charges for Utilities, as defined herein.

**AUTHORITY.** The Michigan State Housing Development Authority.

**CITY.** The City of Charlotte, a Michigan municipal corporation.

**COMMENCEMENT OF CONSTRUCTION.** The commencement of the Housing Rehabilitation, as defined herein.

**HOUSING REHABILITATION PROJECT.** The project being rehabilitated at the Housing Rehabilitation Location, consisting of multiple buildings to include qualified low-income residential apartment units including approximately one hundred (100) units reserved for Low Income Persons and such recreational, industrial, communal and educational facilities as the Sponsor and/or Authority determine will improve the quality of the Housing Rehabilitation Project as it relates to housing for Low Income Persons.

**HOUSING REHABILITATION LOCATION.** 535 Lansing Street, Parcel No. 200-0007-400-081-00, legally described as COM 810.89 FT S OF CENTER SEC.7, N 35DEG 26MIN 21SEC E 410.00 FT, S 54DEG 33MIN 39SEC E 383.98 FT, S 63DEG 20MIN 20SEC E 123.78 FT, S 35DEG 26MIN 21SEC W 174.89 FT, S 54DEG 33MIN 39SEC E 429 FT, SWLY ON C/L LANSING RD 238 FT, N 54DEG 33MIN 39SEC W 429 FT, S 35DEG 26MIN 21SEC W 16 FT, N 54DEG 33MIN 39SEC W 506.31 FT TO BEG. SEC.7, T2N, R4W, CITY OF CHARLOTTE 1980

**LOW INCOME PERSONS.** Persons eligible to move into the Housing Rehabilitation Project pursuant to the Act and the Authority.

**SPONSOR.** Related Affordable, LLC; Butternut Creek Preservation LDHA, 423 W 55TH ST, 8TH FLOOR, NEW YORK, NY 10019

**UTILITIES.** Fuel, water, heat sanitary sewer service and/or electrical service furnished to the occupants which are paid by the Housing Development Project.

#### **64-24 CLASS OF HOUSING DEVELOPMENT.**

It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be family housing which are financed or assisted pursuant to the Act. It is further determined that the proposed Related Affordable project at this location is of this class.

#### **64-25 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.**

(A) Subject to the provisions of this division, the Housing Rehabilitation Project and the Housing Rehabilitation Location shall be exempt from all property taxes for the period specified in Section 64-29. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Rehabilitation Project in reliance upon the enactment and continuing effect of this Agreement and qualification of the Housing Rehabilitation Project for the exemption from all property taxes and a payment in lieu of taxes as established in this division. Therefore, in consideration of the Sponsor's offer to rehabilitate, own and operate the Housing Rehabilitation Project, the City has agreed to accept payment of an annual Service Charge, as defined below, for public services in lieu of all ad valorem property taxes as provided for in Section 64-25 (C) provided the Sponsor furnishes proof, on an annual basis upon request by the City, that the number of qualified low income units in the Housing Rehabilitation Project have not increased, decreased, or been altered in any material form unless the City has otherwise amended the provisions of this division.

(B) The Sponsor of the Housing Rehabilitation Project eligible for exemption, or the City as appropriate and necessary, shall file with the local assessing officer a certified notification of the exemption, which shall be in an affidavit form by either the Authority, the city and/or the Sponsor as appropriate. The completed affidavit form first shall be submitted to the Authority for certification by the Authority that the Housing Development Project is eligible for the exemption. The Sponsor and/or the City shall file or cause to be filed the certified notification of the exemption with the local assessing officer as soon as practically possible.

(C) The annual service charge shall be equal to ten percent (8%) of the difference between the Annual Shelter Rent actually collected and Utilities (the "Service Charge.")

#### **64-26 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.**

Notwithstanding § 64-25, the service charge to be paid each year in lieu of taxes for any part of the housing development which is tax exempt and occupied by other than Low Income Persons shall be equal to the full amount of the taxes which would be due and payable on that portion of the Housing Development Project if the project were not tax exempt.

#### **64-27 CONTRACTUAL EFFECT OF CHAPTER.**

Notwithstanding the provisions of § 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 division.

#### **64-28 PAYMENT OF SERVICE CHARGE.**

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before June 30 of the year following the calendar year upon which such Service Charge is calculated and shall be distributed to the several units levying ad valorem property taxes in the same proportion as for said taxes. Failure to pay the service charge on or before June 30 of each year shall

result in the service charge being subject to one percent (1%) interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December 31 of any year, the amount unpaid shall be a lien upon the real property constituting the Housing Rehabilitation Project upon the City Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the Sponsor with the Eaton County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

**64-29 DURATION.**

This division shall remain in effect and shall not terminate so long as the Housing Development Project continues to be used for Low Income Persons as provided in this division, but not to exceed thirty (30) years; provided, however, if construction of the Housing Rehabilitation Project does not commence within one (1) year of the adoption date of this ordinance, or if the Sponsor materially changes the scope or purpose of the Housing Rehabilitation Project without the consent of the City, by and through its representatives, and in accordance with the requirements of law, this division shall automatically expire, terminate and be of no further effect.

**64-30 SEVERABILITY.**

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of the rehabilitation of qualifying affordable family housing. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this division is declared null and void.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall become effective 20 days after adoption.

Dated: January 3, 2023

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Michael Armitage, Mayor

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Mary LaRocque, Clerk

I, the undersigned, the duly qualified and acting Clerk of the City of Charlotte, County of Eaton, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City of Charlotte at a regularly scheduled meeting held on Tuesday, January 3, 2023, relevant to the Michigan Open Meetings Act, the original of which is on file in my office as part of council minutes.

**IN WITNESS WHEREOF**, I have hereunto set my official signature this 4th day of January 2023.

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Mary LaRocque, City Clerk  
City of Charlotte