

City of Ishpeming

ORDINANCE NO. 11-2700

**TAX EXEMPTION ORDINANCE**

ADOPTED: November 8, 2023

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 a federally-aided Mortgage Loan 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 ISHPEMING ORDAINS:

**SECTION 1.** This Ordinance shall be known and cited as the City of Ishpeming Tax Exemption Ordinance No. 11-2700 – Anderson Lofts and Peninsula Lofts

**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 of Ishpeming 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 of Ishpeming 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 of Ishpeming acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to acquire, rehabilitate, own and operate a housing project identified as Anderson Lofts and Peninsula Lofts on certain property located at 100 S Main, 105 S Main St, 203 S Main St, 114 W Pearl St and 112 E Pearl St (further described in Exhibit A) in the City of Ishpeming to 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 lie u 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. 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.
- D. Low Income Persons and Families means persons and families eligible to move into a housing project.
- E. 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 project, and secured by a mortgage on the housing project.
- F. Sponsor means CHN Ishpeming Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan.
- G. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

**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. It is further determined that Anderson Lofts and Peninsula Lofts is of this class.

**SECTION 5. Establishment of Annual Service Charge.**

The housing project identified as Anderson Lofts and Peninsula Lofts and the property on which it will be located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. 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/rehabilitate Anderson Lofts and Peninsula Lofts 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 7% of the Annual Shelter Rents actually collected by the housing project during each operating year, exclusive of charges for gas, electric,

water, sanitary sewer, and other utilities furnished to the occupants that are paid by the housing project.

**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.

**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, except that the annual service charge shall be paid in one (1) annual payment, which annual payment shall be paid to the City on or before May 1 of each year for the previous calendar 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, the housing project remains subject to income and rent restrictions under the LIHTC Program, or a land use restriction for affordable housing remains on the property; provided that construction of the Housing Development identified as Anderson Lofts and Peninsula Lofts commences within three years from the effective date of this Ordinance; and provided further that in no event shall the exemption granted under Section 5 of this Ordinance continue for more than 30 years. In the event that Anderson Lofts and Peninsula Lofts fails to meet the requirements in this section, then this Ordinance may be amended in the sole discretion of the Ishpeming City Council.

**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 or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict. *[this section is required]*

**Section 12. Effective Date.**

This Ordinance shall become effective on November 9, 2023, as provided in the City Charter.

ORDINANCE DECLARED ADOPTED

  
\_\_\_\_\_  
Cathy Smith, City Clerk

Adopted: 11/8/2023  
Published: 11/9/2023

I hereby certify that the foregoing is a true and complete copy of an Ordinance No. 11-2700 adopted by the City Council of the City of Ishpeming, County of Marquette, Michigan at a regular meeting held on November 8, 2023 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

  
\_\_\_\_\_  
Cathy Smith, City Clerk

EXHIBIT A

PARCELS

Address: 100 S. Main Street

Tax ID: 52-51-050-075-00

Legal Description: ORIGINAL PLAT CITY OF ISHPEMING LOT 75

Address: 100 S. Main Street

Tax ID: 52-51-050-071-50

Legal Description: ORIGINAL PLAT CITY OF ISHPEMING PART OF LOT 71 BEG AT NE COR THEREOF TH S 90' TH W 30' TH N 71.66' TH N58DEG34'E 35.16' TO POB

Address: 100 S. Main Street

Tax ID: 52-51-050-071-00

Legal Description: ORIGINAL PLAT CITY OF ISHPEMING LOT 72 & LOT 71 EXC THAT PART BEG AT NE COR THEREOF TH S 90' TH W 30' TH N 71.66' TH N58DEG34'E 35.16' TO POB

Address: 105 S. Main Street

Tax ID: 52-51-050-076-00

Legal Description: ORIGINAL PLAT CITY OF ISHPEMING LOT 76 AND N. 10' OF LOT 77

Address: 114 W. Pearl Street

Tax ID: 52-51-050-073-00

Legal Description: ORIGINAL PLAT CITY OF ISHPEMING LOTS 73 AND 74

Address: 203 S. Main Street

Tax ID: 52-51-050-040-00

Legal Description: ORIGINAL PLAT, CITY OF ISHPEMING LOT 40 & PART OF LOT 41 BEG AT NW COR THEREOF TH S'LY ALG W LINE THEREOF 3.5' TH E'LY PAR TO N LINE THEREOF 21.25' TH S 3.5' TH E'LY PAR WITH N LINE THEREOF TO E LINE THEREOF TH N TO NE COR THEREOF TH W'LY ALG N LINE OF L

Address: 112 E. Pearl Street

Tax ID: 52-51-050-046-00

Legal Description: ORIGINAL PLAT CITY OF ISHPEMING LOT 46