

## Chapter 10

### COMMUNITY DEVELOPMENT\*

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\***State law references**—Housing and slums clearance projects, MCL 125.651 et seq.; housing corporation law, MCL 125.601 et seq.; urban redevelopment corporations, MCL 125.901 et seq.; rehabilitation of blighted areas, MCL 125.71 et seq.; state housing development authority act of 1966, MCL 125.1401 et seq.; downtown development authority, MCL 125.1651 et seq.; economic development corporations, MCL 125.1601 et seq.



**ARTICLE I. IN GENERAL**

**Secs. 10-1—10-18. Reserved.**

**ARTICLE II. ECONOMIC DEVELOPMENT CORPORATION\***

**Sec. 10-19. Incorporation; creation and authorization.**

There is hereby created and authorized the incorporation of the economic development corporation of the city pursuant to, and in accordance with Public Act No. 338 of 1974 (MCL 125.1601 et seq.).

(Code 1972, § 12.601; Ord. No. 126, § 1, eff. 4-27-1978)

**Sec. 10-20. Application approved.**

The application dated June 26, 1978, and filed by Thomas L. Snyder, Roger D. Chapman and Tim Spencer is hereby approved.

(Code 1972, § 12.602; Ord. No. 126, § 2, eff. 4-27-1978)

**Sec. 10-21. Adoption.**

The Articles of Incorporation for the Economic Development Corporation of the city are hereby approved and adopted in the form provided in section 10-22.

(Code 1972, § 12.603; Ord. No. 126, § 3, eff. 4-27-1978)

**Sec. 10-22. Articles of incorporation; form.**

These articles of incorporation are signed and acknowledged by the incorporators for the purpose of forming a public economic development corporation pursuant to the provisions of Public Act No. 338 of 1974 (MCL 125.1601 et seq.), the "Economic Development Corporations Act of 1974."

\*State law reference—Economic development corporations, MCL 125.1601 et seq.

**ARTICLES OF INCORPORATION**

**OF THE**

**ECONOMIC DEVELOPMENT CORPORATION**

**OF THE CITY OF PORTLAND**

**A PUBLIC CORPORATION**

**ARTICLE 1****NAME**

The name of the economic development corporation is the "Economic Development Corporation of the City of Portland."

**ARTICLE 2****INCORPORATING MUNICIPALITY**

The incorporation of the Economic Development Corporation of the City of Portland was accomplished by the approval of these Articles of Incorporation by Ordinance of the City of Portland, Ionia County, Michigan.

**ARTICLE 3****PURPOSE**

The Corporation is organized and incorporated as authorized by and pursuant to the Economic Development Corporations Act of 1974 (Act 338, Public Acts of 1974), as amended. The purpose for which the Corporation is created is to alleviate and prevent conditions of unemployment; to assist and retain local industries and commercial enterprises; to strengthen and revitalize the economy of the City of Portland and of the State of Michigan; to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in the City of Portland to encourage the location and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to the City and the residents thereof.

To accomplish the foregoing essential public purposes, the corporation, pursuant to Act 338, P.A. 1974, as amended, may do the following:

- (1) **Acquire Lands.** Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair Projects (as the word "project" is defined in Act 338, Public Acts of 1974, as amended), and acquire the necessary lands for the site therefor;
- (2) **Acquire Machinery And Equipment.** Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a Project;
- (3) **Borrow Money; Issue Bonds.** Borrow money and issue its revenue bonds or revenue notes to finance part or all of the cost of the acquisition, purchase, construction, reconstruction, or improvement of a project or any part thereof, the cost of the acquisition and improvement of the necessary sites therefor, the acquisition of machinery, furnishings, and equipment therefor, and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for such purpose;
- (4) **Leases; Purchase Agreements.** Enter into leases, lease purchase agreements, or installment sales contracts with any person, firm, corporation, or public authority for the use or sale of a Project, or any part thereof;
- (5) **Mortgage The Project.** Mortgage the Project, or any part thereof, in favor of any lender of money to the corporation;
- (6) **Sell The Project.** Sell and convey the Project or any part thereof for a price and at a time as the corporation determines;
- (7) **Lend; Transfer Or Convey Funds.** Lend, grant, transfer or convey funds, as described in Act 338, Public Acts of 1974, as amended, as permitted by law, but subject to applicable restrictions affecting the use of such funds;
- (8) **Participate In Designation Of Land Area.** Assist and participate in the designation of the land area which will be acquired in the implementation of a Project;
- (9) **Prepare Plans; Studies; Recommendations.** Prepare, assist and aid in the preparation of plans, services, studies and recommendations relative to the public purposes of the corporation;
- (10) **Encourage Citizen Participation.** Encourage citizen participation and assistance in industrial and commercial enterprises, housing and community improvements and to disseminate information to the general public concerning the purposes and objectives of the corporation;
- (11) **Participate In Acquisition Or Construction Of Improvements.** Aid, assist and participate in the acquisition, rehabilitation or construction of industrial and commercial improvements, dwelling units or other structures or matters incidental thereto;
- (12) **Dispose Of Real Property.** Hold, demolish, repair, alter and improve or otherwise develop, clear, and dispose of real property;
- (13) **Enter Into Intergovernmental Agreements.** Enter into agreements and contracts with any state agency or department, its political subdivisions and agency or department thereof, or any other official public body and any individual, corporation or other organization in connection with the purpose of the corporation;
- (14) **Accept, Hold, Own And Acquire Property.** Accept, hold, own, and acquire by bequest, devise, gift, purchase, or lease any property, real or mixed, whether tangible or intangible, without limitation as to kind, amount or value;
- (15) **Sell, Convey Or Lease Property.** Sell, convey, lease, rent, or mortgage any such property, or any interest therein, and to invest and reinvest the principal thereof and receipts therefrom, if any;
- (16) **Carry On Activities With Other Public Bodies.** Carry on any activity for the purposes above stated, either directly or as agent, for or with other public bodies.

(17) Subject To State Law. In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such other powers which now are or hereafter may be conferred by law upon a corporation organized pursuant to Act 338, P.A. 1974, as amended, and for the foregoing purposes.

#### ARTICLE 4

##### BOARD OF DIRECTORS

Sec. 1. The Board of Directors of the Corporation shall consist of nine (9) persons, not more than three (3) of whom shall be an officer or employee of the City. The Board of Directors of the Corporation shall be appointed by the Mayor or the City Council, as provided in Act 338 Public Acts of Michigan, 1974, as amended. The Directors shall be appointed for terms of six (6) years, except of the Directors first appointed, 4 shall be appointed for 6 years, 1 for 5 years, 1 for 4 years, 1 for 3 years, 1 for 2 years and 1 for 1 year.

Additional directors.

Sec. 2. In accordance with Act 338, Public Acts of Michigan, 1974, as amended, the Mayor with the advice and consent of the City Council shall appoint two (2) additional directors to the Board of Directors of the Corporation for each project proposed by the Corporation. Each of said additional Directors appointed pursuant to this Paragraph 2, Article IV shall serve as Directors of the Corporation until the project for which they are appointed is either abandoned or, if undertaken, is completed in accordance with the project plan, at which time each such director shall cease to serve.

#### ARTICLE 5

##### OFFICERS-DUTIES

The Board of Directors of the Corporation, by an affirmative vote of a majority of its members elect shall elect as the officers of the Corporation, a President, a Secretary and a Treasurer, and from time to time may elect one or more Vice Presidents and such Assistant Secretaries, Assistant Treasurers and such other officers, agents

and employees as the Board of Directors may deem proper. Any two offices other than the office of President, Secretary, and Treasurer may be held by the same person.

The officers of the Corporation shall serve for a term of one (1) year and thereafter until his/her successor is elected and qualified, or until death, resignation or removal.

President.

Sec. 1. The president shall be the chief executive officer of the corporation, but he may from time to time delegate all or any part of his duties to an executive vice president, if one is elected, or to any vice president. He shall preside at all meetings of the directors as Chairman of the Board; he shall have general and active management of the business of the corporation, and shall see that all orders and resolutions of the board are carried into effect. He shall execute all bonds, mortgages, conveyances and other instruments entered into pursuant to the powers of the corporation as set forth in the articles of incorporation with the approval and authority of the Board of Directors. He shall be ex-officio a member of all standing committees.

Chairman of the Board.

Sec. 2. The president acting as Chairman of the Board, shall preside at all meetings of the board of directors, and shall have and exercise such other authority as specifically granted to him from time to time by a resolution of the board of directors.

Vice presidents.

The vice president(s) shall perform such duties as are delegated to him (them) by the president, and he and the other vice presidents in order of their seniority shall, in the absence or in the event of the disability of the president, perform the duties and exercise the powers of the president, and shall perform such other duties as the board of directors shall prescribe.

Secretary.

Sec. 4. The secretary shall attend all meetings of the board and record all votes and the minutes of all proceedings in a book to be kept for that

purpose; and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the board of directors, and shall perform such other duties as may be prescribed by the board of directors under whose supervision he shall be. He shall keep in safe custody the seal of the corporation, and when authorized by the board, affix the same to any instrument requiring it, and when so affixed it shall be attested by his signature or by the signature of the treasurer. He shall be sworn to the faithful discharge of his duties. The assistant secretary, if one is elected, shall perform the duties and exercise the power of the secretary in his absence or in the event of his disability.

Treasurer.

Sec. 5. The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation and shall deposit all moneys, and other valuable effects in the name and to the credit of the corporation in such depositories as may be ordered by the board, taking proper vouchers for such disbursements, and shall render to the president and director, at the regular meetings of the actions as treasurer and of the financial condition of the corporation. He shall give the corporation a bond if required by the board of directors in a sum, and with a one or more sureties satisfactory to the board, for the faithful performance of the duties of his office, and for the restoration to the corporation, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation. The assistant treasurer, if one is elected, shall perform the duties and exercise the power of the treasurer in his absence or in the event of his disability.

ARTICLE 6

POWERS

The powers and duties of the corporation and its officers are to assist in alleviating and preventing conditions of unemployment; to assist and retain local industries and commercial enter-

prises; to assist industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in the City; and to construct, acquire by gift or purchase, reconstruct, improve, maintain, modernize, repair, furnish, equip and expand Projects (as the word "Project" is defined in Act 338, P.A., 1974, as amended), and acquire the necessary lands for the site therefor; to acquire by gift or purchase the necessary machinery, furnishing, and equipment for a Project; borrow money and issue revenue bonds or revenue notes to finance all or part of the cost of a Project, including machinery, furnishings and equipment and the necessary site or sites therefor; to enter into, execute and carry out leases, lease purchase agreements, installment sales contracts with any person, firm or corporation for the use or sale of the Project; to lease, mortgage, sell, and convey the Project or any part thereof for a price and at a time as the corporation determines; to lend, grant, transfer, or convey funds as permitted by law, and in general to do and have such powers not prohibited by law and to this extent all powers provided and conferred by law upon corporations created and incorporated pursuant to Act 338, Public Acts of Michigan, 1974, as amended, are hereby incorporated herein as powers of the corporation and its officers, in addition to all other powers conferred thereupon by law. It shall be the power and the duty of the officers of the corporation to implement, carry out, and execute the above described powers and duties of the corporation.

ARTICLE 7

BODY CORPORATE

The corporation shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incidental thereto. The enumeration of any powers in these Articles of Incorporation shall not be construed as a limitation upon such general powers of the Corporation.

## ARTICLE 8

## LOCATION

Location of the first offices of the Economic Development Corporation of the City of Portland is the City Hall, 259 Kent Street, Portland, MI.

## ARTICLE 9

## REGISTERED AGENT

The name of the first resident agent at the registered office is the City Clerk, Kathleen Smith.

## ARTICLE 10

## NON-STOCK; ASSETS

The Corporation is organized upon a non-stock basis. The amount of assets which said Corporation possesses is:

- (1) Real property: None
- (2) Personal property: None

The corporation will be financed from donations, gifts, grants, and devices, either solicited or unsolicited, obtained from public authorities, individuals, corporations and other organizations, by earnings from its activities, borrowings, and issuance of bonds and notes.

## ARTICLE 11

## INCORPORATORS

The names and addresses of each of the incorporators are as follows:

Thomas L. Snyder

241 Kent Street

Roger D. Chapman

112 E. Bridge Street

Tim Spencer

230 Kent Street

## ARTICLE 12

## TERM

The term of existence of the Corporation is perpetual or until dissolved in accordance with Act 338, Public Acts of Michigan, 1974, as amended.

## ARTICLE 13

## BYLAWS AND REGULATION OF AFFAIRS

The Board of Directors, by an affirmative vote of a majority of its members shall adopt bylaws for the operation of affairs of the corporation.

The regulation of the internal affairs of the Corporation, including the distribution of assets on dissolution or final liquidation is placed entirely with the Board of Directors or their successors, as provided in the bylaws of this corporation, subject, however, to the provisions of Act No. 338 of the Public Acts of 1974, as amended.

## ARTICLE 14

## EFFECTIVE DATE OF CORPORATION

The date upon which the corporation shall become effective is September 1, 1978.

## ARTICLE 15

## PUBLICATION OF ARTICLES OF INCORPORATION

The name of the newspaper in which the Articles of Incorporation shall be published is the Portland Independent, a newspaper of general circulation in the City of Portland. The director elected as Secretary of the Corporation shall also act as Recording Officer of the Corporation. The Clerk of the City of Portland shall cause a copy of the Articles of Incorporation to be published once in said newspaper, accompanied by a statement that the right exists to question the incorporation of the Corporation of a court as provided in Section 31 of Act 338, Public Acts of Michigan, 1974, as amended.

ARTICLE 16  
NET EARNINGS

No part of the net earnings of the corporation, beyond that necessary for the retirement of indebtedness or to implement the public purposes or program of the City shall inure to the benefit of any person, firm or corporation, other than the City (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes), and no member, trustee, officer or director of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

Upon the termination or dissolution of the corporation, after adequate provision has been made for all obligations of the corporation, surplus earnings, and all property and assets of the corporation shall belong to and be paid only to the City of Portland, Michigan, or its successor. (Code 1972, §§ 12.604—12.760; Ord. No. 126, § 4, eff. 4-27-1978)

**Secs. 10-23—10-47. Reserved.**

**ARTICLE III. DOWNTOWN  
DEVELOPMENT AUTHORITY\***

DIVISION 1. GENERALLY

**Sec. 10-48. Definitions.**

The terms used herein shall have the same meaning as given them in Act 197 or as hereinaf-

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\***State law reference**—Downtown development authority, MCL 125.1651 et seq.

ter in this section provided, unless the context clearly indicates to the contrary. As used in this article:

*Act 197* means Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

*Authority* means the Downtown Development Authority of the City of Portland created by this article.

*Board or board of directors* means the board of directors of the authority.

*Downtown district* means the downtown district designated herein or as hereafter amended. (Code 1972, § 14.052; Ord. No. 167, § 2, eff. 9-24-1987)

**Sec. 10-49. Purpose and findings.**

The city council hereby determines and finds that it is in the best interests of the city to create a public body corporate in order to halt property value deterioration and increase property tax valuation where possible in the downtown district, eliminate the causes of the deterioration and to promote economic growth pursuant to Act 197.

(Code 1972, § 14.053; Ord. No. 167, § 3, eff. 9-24-1987)

**Sec. 10-50. Creation of authority.**

There is hereby created pursuant to Act 197 a downtown development authority for the city. The authority shall be a public body corporate and shall be known and exercise its powers under the title "Downtown Development Authority of the City of Portland." The authority may adopt a seal, may sue and be sued in any court of this state, and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided herein and in Act 197. The enumeration of a power herein or in Act 197 shall not be construed as a limitation upon the general powers of the authority.

(Code 1972, § 14.054; Ord. No. 167, § 4, eff. 9-24-1987)



**Sec. 10-51. Description of downtown district.**

The downtown district in which the authority shall exercise its power as provided by Act 197 shall consist of the property in the city described in exhibit A, as amended, attached hereto and made a part hereof, subject to such changes as may hereinafter be made pursuant to this article and Act 197. Exhibit A is not printed herein due to its length; a copy is available in the office of city clerk.

(Code 1972, § 14.055; Ord. No. 167, § 5, eff. 9-24-1987; Ord. No. 167A, eff. 11-19-1987)

**Sec. 10-52. Board of directors.**

The authority shall be under the supervision and control of the board, consisting of the mayor and ten members. The members shall be appointed by the mayor and subject to approval by the council. Eligibility for membership on the board and terms of office shall be as provided in Act 197. Each member shall hold office until the member's successor is appointed.

(Code 1972, § 14.056; Ord. No. 167, § 6, eff. 9-24-1987)

**Sec. 10-53. Powers of the authority.**

The authority shall possess all of the powers necessary to carry out the purposes of its incorporation and shall have all powers provided by Act 197.

(Code 1972, § 14.057; Ord. No. 167, § 7, eff. 9-24-1987)

**Sec. 10-54. Fiscal year; adoption of budget; reports; audits.**

(a) The fiscal year of the authority shall begin on July 1 of each year and end on June 30 of the following year, or such other fiscal year as may hereafter be adopted by the city.

(b) The board shall annually prepare a budget and shall submit it to the city manager for submission to the council. The board shall not finally adopt a budget for any fiscal year until the budget has been approved by the commission. The board may, however, temporarily adopt a budget in connection with the operation of any improve-

ments which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(c) The authority shall be audited annually by the same independent auditors auditing the city and copies of the audit report shall be filed with the council.

(Code 1972, § 14.058; Ord. No. 167, § 8, eff. 9-24-1987)

**Sec. 10-55. Termination.**

Upon completion of its purposes the authority may be dissolved by an ordinance duly adopted by the council. The property and assets of the authority, after dissolution and satisfaction of its obligations, shall revert to the city.

(Code 1972, § 14.059; Ord. No. 167, § 9, eff. 9-24-1987)

**Secs. 10-56—10-83. Reserved.**

**DIVISION 2. DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN\***

**Sec. 10-84. Findings.**

It is hereby determined that:

- (1) A public hearing was held on the proposed downtown development plan and tax increment financing plan on February 8, 1988, following notice thereof, all in accordance with Act 197;
- (2) The findings and recommendations of the development area citizens council have been taken into consideration in the development of the plan;
- (3) The proposed downtown development plan and tax increment financing plan meet the requirements of Act 197, including without limitation, section 17(2) of said act (MCL 125.1667(2));

\*State law references—Tax increment financing plan, MCL 125.1664 et seq.; development plan, MCL 125.1667 et seq.

- (4) The proposed method of financing the development is feasible and the downtown development authority has the ability to arrange the financing;
- (5) The development is reasonable and necessary to carry out the purposes of Act 197;
- (6) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and the act in an efficient and economically satisfactory manner;
- (7) The proposed downtown development plan and tax increment financing plan are in reasonable accord with the city master plan;
- (8) Public services are adequate to service the project area;
- (9) Changes in zoning, streets, street levels, intersections and utilities are reasonably necessary for the project and for the city; and
- (10) The proposed downtown development plan and tax increment financing plan constitute a public purpose.

(Code 1972, § 14.102; Ord. No. 169, § 2.01, eff. 3-7-1988)

**Sec. 10-85. Adoption of the plans.**

The city council hereby adopt and approve and incorporate by reference the city downtown development plan and tax increment financing plan. (Code 1972, § 14.103; Ord. No. 169, § 3.01, eff. 3-7-1988)

**Sec. 10-86. 1992 amended plan.**

(a) *Preliminary determination.* It is hereby preliminarily determined that:

- (1) A public hearing was held on July 6, 1992, on the proposed amended downtown development plan and tax increment financing plan, following notice thereof, all in accordance with Act 197;
- (2) The recommendations of the development area citizens council have been received and reviewed by the city council;

- (3) The proposed amended downtown development plan and tax increment financing plan meets the requirements set forth in Act 197;
- (4) The proposed method of financing the proposed developments is feasible and the downtown development authority of the city has the ability to arrange the financing;
- (5) The proposed developments are reasonable and necessary to carry out the purposes of Act 197;
- (6) Any land included within the proposed development area is reasonably necessary to carry out the purposes of the plan and of Act 197, in an efficient and economically satisfactory manner;
- (7) The proposed amended development plan and tax increment financing plan is in reasonable accord with the master plan of the city;
- (8) Public services, such as fire and police protection and utilities, are or will be adequate to service the proposed project area; and
- (9) Changes in zoning, street levels, intersections and utilities, if any, are reasonable and necessary for the proposed projects for the city.

(b) *Final determination.* It is hereby finally determined that:

- (1) Based upon the foregoing findings, the amended downtown development plan and tax increment financing plan constitutes a public purpose; and
- (2) The amended downtown development plan and tax increment financing plan is hereby approved and on file in the office of the city clerk.

(Code 1972, §§ 14.151, 14.152; Ord. No. 167B, §§ 1.01, 2.01, eff. 7-27-1992)

**Sec. 10-87. 2001 amended plan.**

(a) Pursuant to the authority vested in the city council by Act 197, the proposed amendments to the downtown development and tax increment

financing plan ("the plan") for the city downtown development authority, on file in the office of the city clerk having been duly reviewed and considered at a public hearing held on February 19, 2001, are hereby determined to constitute a public purpose and are hereby adopted and approved.

(b) Approval of the amendments to the plan is based on the following considerations:

- (1) The plan as so amended meets the requirements set forth in section 17(2) of the act (MCL 125.1667(2));
- (2) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing;
- (3) The development is reasonable and necessary to carry out the purposes of the act;
- (4) The land included in the development area to be acquired is reasonably necessary to carry out the purpose of the plan and of the Act in an efficient and economically satisfactory manner;
- (5) The development plan is in reasonable accord with the master plan of the city;
- (6) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area; and
- (7) Changes in zoning, streets, street levels, intersections and utilities are reasonably necessary for the project and the city.

(Code 1972, § 14.171; Ord. No. 167-C, § 1, eff. 4-11-2001)

**Sec. 10-88. 2003 amended plan.**

The city council having duly reviewed and considered that the proposed amendment to the city downtown development authority's development and tax increment financing plan at a public hearing held on November 17, 2003, hereby determines that the proposed amendment constitutes a public purpose and meets the requirements of section 17(2) of the Downtown

Development Authority Act, Act 197 and therefore approve the amendment on file in the office of the city clerk.

(Code 1972, § 14.181; Ord. No. 167-D, § 1, eff. 11-27-2003)

**Secs. 10-89—10-119. Reserved.**

**ARTICLE IV. TAX EXEMPTION FOR CERTAIN HOUSING DEVELOPMENTS\***

**Sec. 10-120. Title.**

This article shall be known and cited as the City of Portland Property Tax Exemption Ordinance.

(Ord. No. 195A, § 1, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

**Sec. 10-121. 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 citizens of low and 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, MCLA Section 125.1401 et seq., MSA Section 116.114 (1) et seq). The city is authorized by this Act to establish or change the service charge to be paid in lieu of property taxes by any and all classes of housing exempt from property taxation under this Act at any amount it chooses not to exceed the property taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low and moderate income is a public necessity, and as the city will be benefited 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 continu-

**\*Editor's note**—Ord. No. 195A, § 1-9, effective January 31, 2013, amended Article IV in its entirety to read as herein set out. Former Article IV, §§ 10-120—10-127, pertained to similar subject matter. See Code Comparative Table for complete derivation.

**State law reference**—State housing development authority act of 1966, MCL 125.1401 et seq.

ance of the provisions of this article for property tax exemptions and the service charge in lieu of property taxes during the period contemplated in this article are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such property tax exemption.

The city acknowledges that Portland School Limited Dividend Housing Association Limited Partnership (the "Sponsor") has offered, subject to receipt of an allocation of Low Income Housing Tax Credits ("LIHTC") from the Michigan State Housing Development Authority, to rehabilitate, own and operate a housing development identified as Portland School Apartments on certain property located in the City of Portland, County of Ionia, Michigan, which is legally described on Exhibit A to serve persons of low and moderate income, and that the sponsor has offered to the city, on account of the housing development, an annual service charge for public services in lieu of all property taxes.

(Ord. No. 195A, § 2, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

### **Sec. 10-122. Definitions.**

*Authority* means the Michigan State Housing Development Authority.

*Act* means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

*Annual shelter rent* means the total actual collections during an agreed annual period from all occupants of a housing development representing rents or occupancy charges, which rental amounts shall be exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

*Housing development* means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income. For

the purposes of this section, the name of this development shall be The Portland School Apartments.

*Class* means the Housing Development known as Portland School Apartments for low and moderate income persons and families.

*Mortgage loan* means either a loan that is Federally-Aided (as defined in Section 11 of the Act,) or a loan to be made by the Authority or USDA-Rural Development or the Department of Housing and Urban Development to sponsor for the construction and permanent financing of a housing development or a mortgage loan insured by HUD all as defined by the Act.

*Utilities* means fuel, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development.

*LIHTC* means low income housing tax credits.

*Low and moderate income persons or families* means those persons as defined by the Act.

*Sponsor* means person(s) or entities which have applied to the Authority for a Mortgage Loan or "LIHTC" funds to finance a Housing Development. For the purposes of this section, the sponsor is the Portland School Limited Dividend Housing Association Limited Partnership.

(Ord. No. 195A, § 3, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

### **Sec. 10-123. Class of housing developments.**

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 for low and moderate income housing for persons and families, which are financed or assisted pursuant to the Act. It is further determined that Portland School Apartments is of this class.

(Ord. No. 195A, § 4, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

**Sec. 10-124. Establishment of annual service charge.**

(a) The Housing Development identified as Portland School 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 city 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 article and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes established in the article, and in consideration of the sponsor's offer subject to receipt of a Mortgage Loan from the Authority, 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. The annual service charge shall be equal to eight percent of the Annual Shelter Rents.

(b) The Housing Development shall report to the city its Annual Shelter Rents within 45 days of the last day of the applicable calendar year on a unit-by-unit basis.

(c) The city shall have the right to inspect the Housing Development's records and the right to audit and recompute any amounts determined to be Annual Shelter Rents. If the sum recomputed exceeds five percent of the reported Annual Shelter Rents which the audit determines should have been reported, the Housing Development shall pay the city's cost of auditing that calendar year. The Housing Development shall retain financial records for a period of four calendar years and will not be responsible beyond that period of time. The Housing Development shall provide the city with reasonable access to its records documenting rents and occupancy charges as defined by this article. The Housing Development shall comply with all reasonable requests for information in the performance of the audit. The city agrees to appropriate confidentiality in the performance of the audit. The city agrees to appropriate confidentiality protection for access to confidential and proprietary information.

(Ord. No. 195A, § 5, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

**Sec. 10-125. Limitation on the payment of annual service charge.**

Notwithstanding section 10-124, the service charge to be paid each year in lieu of property taxes for the part of the Housing Development which is tax exempt and which is occupied by other than low and moderate 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.

(Ord. No. 195A, § 6, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

**Sec. 10-126. Contractual effect of ordinance.**

To the extent permitted by law and 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 property tax exemption and accept payments in lieu of property taxes, as previously described, is effectuated by enactment of this article.

(Ord. No. 195A, § 7, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

**Sec. 10-127. Payment of service charge.**

The service charge in lieu of property taxes as determined under this article shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before March 1 of each year for the previous calendar year.

(Ord. No. 195A, § 8, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)

**Sec. 10-128. Duration.**

This article shall remain in effect and shall not terminate for a period of 16 years, following the first date of occupancy after completion of construction pursuant to section 10-124 above, provided that construction of the Housing Development commences within three years from the effective date of this article.

(Ord. No. 195A, § 9, eff. 1-31-2013; Ord. No. 195B, eff. 1-19-2014; Ord. No. 195C, eff. 3-30-2015)