

12.1800

**TAX EXEMPTION ORDINANCE NO. 14
CITY OF GAYLORD**

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, as amended. (The "Act".)

THE CITY OF GAYLORD ORDAINS:

12.1801 Sec. 1.

This ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No. 13."

12.1802 Sec. 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 to be paid in lieu of property taxes in accordance with the Michigan State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA Section 125.1401 et. seq., MSA Section 16,144(1) et. seq.). 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 certain real estate tax exemption for such housing is a valid purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the periods 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 City acknowledges that Gaylord IV Limited Dividend Housing Association Limited Partnership ("the Sponsor" and "the Owner") has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit Program ("LIHTC"), to construct, own and operate a housing development on certain property located in the City, described on Exhibit A attached hereto and incorporated herein by reference, 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 lieu of all ad valorem property taxes; and that the provisions of this ordinance are intended to establish such annual service charge in lieu of taxes for each phase of the Housing

Development constructed and operated on that portion of the property described on Exhibit A that complies with and satisfies the provisions of this ordinance. Provided, however, that the exemption from taxation provided in Section 15a of the Act shall not apply to, and the service charge in lieu of taxes shall not be in lieu of any special assessment obligations.

12.1803 **Sec. 3. DEFINITIONS.**

1. Authority means the Michigan State Housing Development Authority.
2. Act means the State Housing Development Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
3. 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 charges for gas, electricity, water and sanitary sewer service, or other utilities furnished to the occupants.
4. Contract Rents are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended.
5. 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.
6. Housing Development or Housing Project means a development that contains a significant element of housing for persons of low or moderate income and elements of other housing and commercial, recreational, industrial, communal, and educational facilities that the Authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.
7. Owner means Gaylord IV Limited Dividend Housing Association Limited Partnership or any person or entity that receives or assumes a Mortgage Loan.
8. Utilities mean gas, electricity, water and sanitary sewer service, or other utilities furnished to the occupants and paid by the Housing Development.
9. Sponsor means person(s) or entities, which have applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.
10. Low Income Persons and Families means persons and families eligible to move into a housing project.
11. 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 Owner for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

12.1804 **Sec. 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 the project to be developed by Owner and Sponsor is of this class.

12.1805 **Sec. 5. ESTABLISHMENT OF ANNUAL SERVICE CHARGE.**

The housing project to be developed by Sponsor and Owner on the real property described in Exhibit A 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. 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 four (4%) percent of the Annual Shelter Rents actually collected by the Housing Development during each operating year.

12.1806 **Sec. 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.

The term "low income persons or families" as used herein shall be the same meaning as found in Section 15a (7) of the Act.

12.1807 **Sec. 7. CONTRACTUAL EFFECT OF ORDINANCE.**

Notwithstanding the provisions of Section 15a (5) of the Act, a contract between the City and the Owner, with the Authority as a third-party beneficiary thereunder, to provide tax exemption and accept payments in lieu thereof as previously described is effected by enactment of this Ordinance. The City Manager and the City Clerk shall be and hereby are authorized to execute any and all contracts, which may be required by the Authority for the purpose of effectuating and executing the provisions of this section.

12.1808 **Sec. 8. PAYMENT OF SERVICE CHARGE.**

The 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 City

except that the annual payment shall be paid on or before the first (1st) day of August in the year following the year for which the payment is due. Prior thereto and prior to the first day of May from and after the issuance of the certificate of occupancy for the Housing Development, the Owner shall submit a copy of its certified audit as submitted to the Authority, together with a statement of the amount to be paid. Then payment shall then be made on or before August 1.

12.1809 Sec. 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 LIHTC Program.

12.1810 Sec. 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.

Sec. 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.

12.1811 Sec. 11. **EFFECTIVE DATE.**

This Ordinance shall become effective on August 30, 2015.

EXHIBIT A

The legal description of the real property is:

LOTS 6, 7, 8, 9, 10 AND 11, BLOCK 7, OF SANDFORD W. BUCK'S ADDITION TO THE VILLAGE (NOW CITY) OF GAYLORD, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 1 OF PLATS, PAGE 10, OTSEGO COUNTY RECORDS, OTSEGO COUNTY, MICHIGAN.