

12.750

**TAX EXEMPTION ORDINANCE NO. 3.
CITY OF GAYLORD
Eff. April 8, 2002**

An ordinance to provide for a service charge in lieu of taxes for a proposed multiple-family dwelling project for persons of low income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

THE CITY OF GAYLORD ORDAINS:

12.751

Sec. 1.

This ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No. 3."

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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 citizens of low income 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 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 taxes by any or all classes of housing exempt from 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 persons of low income 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 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 City acknowledges that HDC, LLC (the "Sponsor") has proposed, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct, own and operate one or more housing developments on certain property located in the City described on Exhibit A attached hereto and incorporated herein by reference to serve persons of low income; that each Housing Development shall be constructed on a part of Exhibit A acquired from the Sponsor by a separate Limited Dividend Housing Association formed in accordance with the laws of the State of Michigan for the sole purpose of owning and operating that Housing Development (the "Owner"); that the Sponsor has proposed that the Owner of each phase in which the Housing Developments are constructed shall pay to the City on account of each Housing Development an annual service charge for public services

in lieu of all taxes; and that the provisions of this ordinance are intended to establish such annual service charge in lieu of taxes for each of the Housing Developments constructed and operated on any portions of Exhibit A that complies with and satisfies the provisions of this ordinance.

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Sec. 3. DEFINITIONS.

1. Authority means the Michigan State Housing Development Authority.
2. Act means the State Housing Development Authority 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. 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 improves the quality of the development as it relates to housing for persons of low income.
6. Mortgage Loan means a loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the Housing Development.
7. Utilities mean gas, electricity, water and sanitary sewer service, or other utilities furnished to the occupants and paid by the Housing Development.
8. Sponsor means person(s) or entities, which have applied to the Authority for a Mortgage Loan to finance a Housing Development.

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Sec. 4. CLASS OF HOUSING DEVELOPMENTS.

It is hereby determined that the class of Housing Development to and for which the tax exemption shall apply and for which a service charge shall be paid in lieu of such real property taxes pursuant to this ordinance shall be multiple family units, which are financed or assisted pursuant to the Act and which are constructed upon the real property described on Exhibit A. It is further determined that the Housing Development for which a site plan was submitted by the Sponsor and approved by the City is of this class, so long as the same complies with the provisions of this Ordinance.

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Sec. 5. ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

Each of the Housing Developments and the property on which the same 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 or will establish the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance 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 proposal, subject to receipt of a Mortgage Loan from the Authority, to construct, own and operate the Housing Development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes for each phase of the Housing Development. The annual service charge shall be a sum equal to four and one-quarter percent (4 1/4%) of the difference between the Annual Shelter Rents actually collected and utilities paid by the Sponsor, and shall commence in the first year following issuance of the final Certificate of Occupancy for the Housing Development. Each year after the first year following the issuance of the final Certificates of Occupancy, the service charge shall increase by one-eighth of one percent (1/8%). The service charge shall be in effect for the 35-year mortgage loan period. After a period of thirty-five years, the service charge in lieu of taxes, if still then applicable to the property, shall be equal to the amount that would be paid in ad valorem property taxes in the absence of any exemption.

12.756 **Sec. 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 any future Sponsors, 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.

12.757 **Sec. 7. 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 last certificate of occupancy for each of the Housing Developments, 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.

12.758 **Sec. 8. DURATION.**

This Ordinance shall remain in effect and shall not terminate so long as the Mortgage Loan, or the Mortgage Loans is Housing Development is built in more than one phase, remain outstanding and unpaid or the Authority has any interest in the property, not to exceed thirty-five years after the issuance of the final Certificate of Occupancy for the Housing Development. Provided, however, that if construction does not commence within five years from the effective date of this Ordinance, or if the Mortgage Loan, or Mortgage Loans, is at any time satisfied and the Authority does not have any interest in the property, this Ordinance shall be void and of no further force and effect. In the event that there is nonpayment of service charges,

and the property goes back on the tax rolls for general property taxation purposes, this Ordinance is automatically repealed.

12.759 **Sec. 9. 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.

12.760 **Sec. 10. EFFECTIVE DATE.**

This Ordinance shall become effective on the 28th day of April, 2002. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

EXHIBIT A

The legal description of the real property is:

Part of the East one-half of the Northwest one-quarter of Section 33, Town 31 North, Range 3 West, described as: Commencing at the West one-quarter corner of said Section 33; thence South 89°42'40" East, along the East-West one-quarter line of said section, 1303.23 feet to the West one-eighth line of said section and the Point of Beginning; thence North 00°10'15" East, along said West one-eighth line, 450.04 feet; thence South 89°40'44" East, 860.24 feet to the West line of J. Schreur's Addition No. 2; thence South 00°03'49" West, along said West line, 449.68 feet to the East-West one-quarter line of said section; thence North 89°42'13" West, along said East-West one-quarter line, 861.08 feet to the Point of Beginning. The above described parcel contains 8.88 acres of land, more or less.