

12.800

TAX EXEMPTION ORDINANCE NO. 4.

CITY OF GAYLORD

Eff. April 13, 2003

Amend. eff. Nov. 28, 2004

Amend. eff. Aug. 13, 2006

Amend. eff. Aug. 16, 2009

Amend. eff. Jan. 31, 2010

Amend. eff. Feb. 12, 2012

Amend. eff. Nov. 25, 2013

Amend. eff. Aug. 16, 2015

An ordinance to provide for a service charge in lieu of taxes for a proposed elderly 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:

12.801

Sec. 1.

This ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No. 4."

12.802

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 elderly 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 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 elderly persons of low 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 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 Gaylord 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 elderly persons and elderly persons of low income; that the Housing Development shall be constructed in phases on a part of the property described on Exhibit A. That the Owner of the Housing Development shall pay to the City 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 phase of the Housing Development constructed and operated on that portion of 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."

12.803

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. Elderly means a single person who is fifty-five (55) years of age or older or a household in which at least one (1) member is fifty-five (55) years of age and all other members are fifty (50) years of age or older.
6. Housing Development 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 Limited Dividend Housing Association Limited Partnership.
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 or Moderate Income Persons means families and persons who cannot afford to pay the amounts at which private enterprise, without federally-aided mortgages or loans from the authority, is providing a substantial supply of decent, safe, and sanitary housing and who fall within income limitations set in this Act or by the Authority in its rules. Among low income or moderate income persons, preference shall be given to the elderly and those displaced by urban renewal, slum clearance, or other governmental action.

11. Mortgage Loan means any loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the Housing Development.

12.804 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 housing for persons of low to moderate income, which is financed or assisted pursuant to the Act and which is 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 Sponsors and approved by the City is of this class, so long as the same complies with the provisions of this Ordinance.

12.805 Sec. 5. ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

Each phase of the Housing Development and the property on which the same shall be constructed shall be exempt from all property taxes from and after the year each such phase of the project is placed into service as evidenced by a Certificate of Occupancy from the appropriate building official. 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 an allocation under the LIHTC Program, 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. The annual service charge for Phase I of the Housing Development shall be a sum equal to eight and one-half (8 ½%) percent of the Annual Shelter Rents actually collected and shall commence in the first year following issuance of the final Certificate of Occupancy for Phase I of the Housing Development and shall be in effect for a period of fifteen (15) years. The annual service charge for Phase II of the Housing Development shall be a sum equal to eight and one-half (8 ½%) percent of the Annual Shelter Rents actually collected and shall commence in the first year following issuance of the final Certificate of Occupancy for Phase II of the Housing Development and shall be in effect for a period of twenty-one (21) years. The annual service charge for Phase III of the Housing Development shall be a sum equal to four (4%) percent of the Annual Shelter Rents actually collected and shall commence in the first year following issuance of the final Certificate of Occupancy for Phase III of the Housing Development and shall be in effect for a period of thirty-five (35) years. After the applicable period of the service charge for each phase has expired, the exemption from taxation provided in Section 15a of the Act and the service charge in lieu of taxes provided by this Ordinance for each phase of the Housing Development shall no longer apply to such phase of the Housing Development and the property shall thereafter be subject to regular ad valorem property taxes.

12.806 **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.

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

Notwithstanding the provisions of Section 15a (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.

12.808 **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.

12.809 **Sec. 9. DURATION.**

The service charge in lieu of taxes provided by this Ordinance, for each phase of the Housing Development shall commence and remain in effect for the periods stated in Section 5 above. Provided that the service charge as to any phase of the Housing Development shall be in effect only for so long as such phase of the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended."

12.810 **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.

12.811

Sec. 11. EFFECTIVE DATE.

This Ordinance shall become effective on the 16th day of August, 2015. 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:

BEG AT SW COR OF SEC 33, TH S89DEG E 2031.42 FT, TH N808.18 FT TO POB, TH S89DEG W 392.88 FT, N24DEGW 217.23 FT, TH N13DEG W 327.34 FT, TH S89DEG E 561.12 FT, TH S513 FT TO POB EXC STATE HWY RW PARCEL 2 SANFORD W BUCKS ADD TO CITY