

12.1000

**TAX EXEMPTION ORDINANCE NO. 8.
CITY OF GAYLORD
Eff. June 18, 2007**

An ordinance to provide for a service charge in lieu of taxes for a multi-family dwelling project to be rehabilitated 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:

12.1001

Sec. 1.

This ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No. 8."

12.1002

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 and moderate 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., hereinafter the "Act"). The City is authorized by the Act to establish or change the service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under the Act at any amount it chooses, not to exceed the taxes that would be paid but for the 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 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 or rehabilitated and financed in reliance on such tax exemption.

The City acknowledges that T J Gaslight Square 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 rehabilitate, 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 persons of low and moderate income (as defined by MCL 125.1411 (g)). 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 the Housing Development rehabilitated and operated on

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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.

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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 low income 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 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 improves the quality of the development as it relates to housing for persons of low or moderate income.
6. Owner means T J Gaslight Square Limited Dividend Housing Association Limited Partnership.
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 T J Gaslight Square Limited Dividend Housing Association Limited Partnership.
9. Low Income Persons or Families means those persons and families whose income is 60% or less of area median income as adjusted for family size and who are determined to be eligible to move into the Development under the provisions of Section 42, with all units to be rent restricted.
10. Development means the multi-family Housing Development located in the City of Gaylord, Otsego County, Michigan, on land more particularly described on Exhibit "A" attached hereto and made a part hereof, known as Gaslight Square Apartments.
11. Section 42 means Section 42 of the Internal Revenue Code of 1986, as amended.

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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 housing for persons of low to moderate income, which is financed or assisted pursuant to the Act and which is to

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be rehabilitated upon the real property described on Exhibit A. It is further determined that the Gaslight Square Apartments are of this class, so long as the same complies with the provisions of this Ordinance.

12.1005 Sec. 5. ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

The Housing Development and the property on which the same is located shall be exempt from all property taxes from and after the year in which the proposed rehabilitation is completed as evidenced by a Certificate of Occupancy, inspection or report 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 rehabilitate, 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 shall be a sum equal to eight and one-half percent (8 1/2%) of the Annual Shelter Rents actually collected, and shall commence in the first year following the completion of the proposed rehabilitation. The service charge shall be in effect for a fifteen (15) year period. After a period of fifteen (15) years, the exemption from taxation provided in Section 15a of the Act and the service charge in lieu of taxes provided by this ordinance shall no longer apply to the Housing Development and the property shall thereafter be subject to regular ad valorem property taxes.

12.1006 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 and this ordinance.

12.1007 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.

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12.1008 **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 completion of the proposed rehabilitation of 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.

12.1009 **Sec. 9. BENEFITS.**

The benefits of tax exemption granted pursuant to this ordinance shall be allocated by the Sponsor exclusively to the Low Income Persons or Families of the Development in the form of reduced rent. The Sponsor shall, at the request of the City, submit to the City such evidence and documentation as may be reasonably necessary to verify Sponsor's compliance with this requirement.

12.1010 **Sec. 10. DURATION.**

The service charge in lieu of taxes provided by this Ordinance shall remain in effect for a period of fifteen (15) years after the proposed rehabilitation of the Housing Development has been completed, so long as the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, provided that the proposed rehabilitation of the Housing Development commences within one (1) year from the effective date of this Ordinance. Any default in payment of the service charge in lieu of taxes shall terminate the exemption from taxes provided in Section 15a of the Act and the property shall thereafter be subject to regular ad valorem property taxes.

12.1011 **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.

12.1012 **Sec. 11. EFFECTIVE DATE.**

This Ordinance shall become effective on the 18th day of June, 2007. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

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EXHIBIT A

The legal description of the real property is:

BEG AT E ¼ COR OF SEC, TH N 5 DEG W 740.51 FT, S72 DEG W 174.27 FT FOR POB,
TH S 4 DEG E 447.51 FTS 85 DEG W 632.81 FT, N 4 DEG W 299 FT, N 72 DEG E 650 FT
TO POB SEC 9 T30N R3W, PARCEL G