

12.1300

**TAX EXEMPTION ORDINANCE NO. 10.**  
**CITY OF GAYLORD**  
**Eff. May 17, 2009; amend eff. Feb. 14, 2010**

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

12.1301

Sec. 1.

This ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No 10."

12.1302

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 Alpine Alten Zimmer II 2009 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 elderly persons and elderly persons of low and moderate income; that the Housing Development shall be rehabilitated on property described in 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 the Housing Development rehabilitated and operated on property

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described in 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.

**12.1303**      **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, provided that any collections which must be rebated to the federal government shall not be included.
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 Alpine Alten Zimmer II 2009 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 for an allocation under the Low Income Housing Tax Credit Program and/or an Authority aided or federally aided mortgage loan 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.

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

11. Development means the elderly Housing Development located in the City of Gaylord, Otsego County, Michigan, on land more particularly described in Exhibit A attached hereto and made a part hereof, known as Alpine Alten Zimmer.
12. Low Income Housing Tax Credit 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.

**12.1304 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 elderly persons of low to moderate income, which is financed or assisted pursuant to the Act and which is to be rehabilitated upon the real property described on Exhibit A. It is further determined that Alpine Alten Zimmer is of this class, so long as the same complies with the provisions of this Ordinance.

**12.1305 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 commenced. 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 and a Mortgage Loan from the U.S. Department of Agriculture, 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 (8.5%) of the combined Annual Shelter Rents received with respect to residents not benefiting from Section 8 subsidies and the Contract Rents actually collected with respect to residents benefiting from Section 8 subsidies, and shall commence in the first year following the commencement of the rehabilitation . The service charge shall be in effect and shall not terminate for a period of twenty years provided that the rehabilitation of the Housing Development commences within eighteen months from the effective date of this Ordinance.

**12.1306**      **Sec. 6. SECTION INTENTIONALLY LEFT BLANK**

**12.1307**      **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 Alpine Alten Zimmer II 2009 LDHA LP, with the Authority as a third-party beneficiary thereunder, to provide tax exemption and accept payments in lieu thereof as previously described is effectuated 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.

**12.1308**      **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 (1<sup>st</sup>) 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 commencement 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.

**12.1309**      **Sec. 9. DURATION.**

The service charge in lieu of taxes provided by this Ordinance shall remain in effect and shall not terminate for a period of twenty years from the commencement of the exemption from property taxes, provided that the rehabilitation of the Housing Development commences within eighteen months from the effective date of this Ordinance. Any default in payment of the service charge in lieu of taxes which is not corrected within 30 days after written notice thereof to the Owner 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.

Ord. amend. eff. Feb. 14, 2010

**12.1310**      **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.

**12.1311**      **Sec. 11. EFFECTIVE DATE.**

This Ordinance shall become effective on the 17th day of May, 2009. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict provided such repeal shall be effective only upon acquisition of the Development by the Sponsor and provided further that enactment of this ordinance shall not be deemed to amend or repeal any preexisting tax abatement ordinances enacted by the City for other Developments.

## EXHIBIT A

### The legal description of the real property is:

#### PARCEL 1

A PARCEL OF LAND ON PART OF THE SW 1/4 OF THE SE 1/4 OF SECTION 4, T.30N.-R.3W., CITY OF GAYLORD, OTSEGO COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE S. 1/4 CORNER OF SECTION 4, T.30N.-R3W., THENCE S 80°-39'-40" E 659.69 FEET (RECORDED AS 660.91 FEET) ALONG THE S. LINE OF SAID SECTION 4; THENCE N 00°-48'-49" W, 33.51 FEET TO THE POINT OF BEGINNING; THENCE N 00°-37'-27" W 393.30 FEET (RECORDED AS N 00°-48'-49" W 393.50 FEET) ALONG THE E. LINE OF THE PLAT OF GRANDVIEW ADDITION; THENCE N 00°-46'-04" W 122.83 FEET; THENCE N 89°-56'-42" W (RECORDED AS S 88°-56'-05" W) 19.11 FEET; THENCE N 00°-09'-14" E 59.22 FEET (RECORDED AS 59.48 FEET); THENCE N 89°-16'-37" E 363.79 FEET; THENCE S 00° -07'-05" W 224.26 FEET (RECORDED AS 224.04 FEET); THENCE N 89°-16'-07" E 377.50 FEET (RECORDED AS N 89°-18'-34" E 377.28 FEET), THENCE S 01°-21'-41" W 476.25 FEET; THENCE N 80°-40'-50" W (RECORDED AS N 80°-39'-40" W) ALONG THE N. LINE OF GRANDVIEW BOULEVARD 129.00 FEET, THENCE N 09°-19'-26" E 151.43 FEET, THENCE N 80°-23'-44" W 162.69 FEET, THENCE N 08°-49'-41" E 69.61 FEET, THENCE N 20°-01'-56" W 65.52 FEET, THENCE N 09°-17'-38" E 93.80 FEET, THENCE N 80°-42'-22" W 164.28 FEET, THENCE N 09°-17'-18" E 24.09 FEET, THENCE S 89°-18'-34" W 10.12 FEET, THENCE N 80°-39'-40" W 147.84 FEET, THENCE S 09°-20'-20" W 395.15 FEET, THENCE N 80°-40'-50" W 67.33 FEET (RECORDED AS N 80°-39'-40" W 66.00 FEET) ALONG THE N. LINE OF GRANDVIEW BOULEVARD TO THE POINT OF BEGINNING.

PARCEL CONTAINS 4.97 ACRES.