

12.1500

**TAX EXEMPTION ORDINANCE NO. 12
CITY OF GAYLORD
Ord. Eff. Sept. 12, 2010**

An ordinance to provide for a service charge in lieu of taxes for a dwelling project to be rehabilitated for persons of low income and elderly persons of low or moderate income pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

THE CITY OF GAYLORD ORDAINS:

12.1501

Sec. 1.

This ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No. 12."

12.1502

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 elderly persons of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority, Act 346 of 1966, as amended, MCL Section 125.1401, *et seq.* (the "Act"). The City is authorized by this Act to establish or charge 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 the Act. It is further acknowledged that such housing for persons of low income and elderly 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 the economic feasibility of the housing development which is constructed and financed in reliance on such tax exemption.

The City acknowledges that Alpine Haus Limited Dividend Housing Association Limited Partnership ("the Owner") has offered, subject to receipt of acceptable mortgage loan financing, to construct, 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 or families of low income and elderly persons of low or moderate income; that the Housing Development shall be constructed/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 constructed/rehabilitated and operated on property 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.

12.1503

Sec. 3. DEFINITIONS.

All terms shall be defined as set forth in the Act, as amended, except as follows:

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 Rents 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 which contains a significant element of housing for low income persons or families or elderly persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improve the quality of the development as it relates to housing for low income persons or families or elderly persons of low or moderate income.
7. Owner means Alpine Haus 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 a person(s) or entities which have applied to the Authority for a Mortgage Loan to finance the Housing Development.
10. HUD means the Department of Housing and Urban Development of the United States Government.
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 Haus.
12. Calendar Year means the consecutive 12 month period which ends on December 31 of the year immediately preceding the year in which the service charge is to be paid.

13. Federally-Aided Mortgage means any of the following:
- (i) A below market interest rate mortgage insured, purchased or held by the Secretary of the Department of HUD.
 - (ii) A market interest rate mortgage insured by the Secretary of HUD and augmented by a program of rent subsidies.
 - (iii) A mortgage receiving interest rate reduction payments provided by the Secretary of the Department of HUD.
 - (iv) A mortgage on a Housing Development to which the Authority allocates low-income housing tax credits under Section 22b of the Act.
 - (v) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate income housing, consistent with the Act.
14. 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.
15. Low Income Persons or Families shall have the same meaning as found in Section 15(a)(7) of the Act.
16. Low Income Or Moderate Income Persons shall have the same meaning as found in Section 11(g) of the Act.

12.1504

Sec. 4. **CLASS OF HOUSING DEVELOPMENTS.**

It is determined that the class of Housing Developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be those Housing Developments acquired, constructed, rehabilitated, and operated for the benefit of low income persons and elderly persons of low income or moderate income, which are financed or assisted pursuant to the Act. It is further determined that Alpine Haus is of this class.

12.1505

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

Subject to the receipt of a Mortgage Loan, the Housing Development identified as Alpine Haus exclusively and specially designated for low income persons or elderly persons of low or moderate income and the property on which it shall be constructed, shall be exempt from all property taxation beginning in the year following the commencement of construction/rehabilitation and continuing as long as the mortgage loan insured by HUD or assisted or financed by the Authority remains outstanding and unpaid and as long as HUD or the Authority has any interest in such property. The City acknowledges that the Sponsor and the Authority have established 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 offer, subject to receipt of a Mortgage Loan from the Authority, to construct, own and operate the Housing Development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. Notwithstanding the foregoing, Alpine Haus shall be subject to a service charge in lieu of property taxes in the amount hereinafter set forth which shall be applied against Annual Shelter Rents of the preceding calendar year, exclusive of utility charges paid by tenants or by the Sponsor, equal to four percent (4%) for the entire life of the Mortgage Loan.

12.1506 **Sec. 6. LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.**

Notwithstanding Sec. 5, above, 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 or elderly persons of low or moderate income 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.

12.1507 **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 Haus Limited Dividend Housing Association Limited Partnership, with the Authority as a third-party beneficiary thereunder, to provide tax exemption and accept payments in lieu of taxes 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.

12.1508 **Sec. 8. PAYMENT OF SERVICE CHARGE.**

The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable in the City of Gaylord; except that the annual payment shall be paid on or before July 1 of each year. The entire tax collection procedure including the lien status for non-payment provided by the General Property Tax Act of the State of Michigan, including applicable provisions of the Charter of the City of Gaylord, shall be effective with respect to such payment, including, but not by way of limitation, the provisions providing for interest and penalties on late payments, return of delinquent taxes, and the sale of lands for delinquent taxes.

12.1509 **Sec. 9. DURATION.**

This Ordinance shall remain in effect and shall not terminate so long as the Mortgage Loan remains outstanding and unpaid and the Authority or HUD has an interest in the property, provided that the construction/rehabilitation of the Housing Development commences within one year from the effective date of this Ordinance.

12.1510 **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.

12.1511 **Sec. 11. EFFECTIVE DATE.**

This Ordinance shall become effective on the 12 day of September, 2010. 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:

Land in the City of Gaylord, County of Otsego, State of Michigan, described as:

Part of the NE ¼ of Section 33, T31N, R3W, City of Gaylord, Otsego County, Michigan, being part of a certified survey recorded in Liber 207 of Deeds, pages 13 and 14, Otsego County Records, described as follows: Commencing at the center ¼ corner of said Section 33 as monumented; thence S89°43'17"E 654.18 feet along the East and West ¼ line of said Section 33 as monumented and the South line of "WM. WIDRIG'S ADDITION" according to the plat thereof recorded in Liber 2 of Plats on Page 75, Otsego County Records (recorded as 654.2 feet); thence N00°05'00"E 442.11 feet along the East line of said "WM. WIDRIG'S ADDITION" as monumented and the West line of a certain certified survey recorded in Liber 195 of Deeds, on pages 437 and 438, Otsego County records (recorded as 441.98 feet according to said certified survey) to the POINT OF BEGINNING; thence continuing N00°05'00"E 590.83 feet along the East line of said "WM. WIDRIG'S ADDITION" to a concrete monument; thence N00°04'51"W 33.04 feet along the East line of said "WM. WIDRIG'S ADDITION"; thence S89°38'11"E 66.00 feet; thence S00°04'51"E 33.04 feet; thence 26.77 feet along the arc of a curve with a radius of 37.11, through a central angle of 41°20'29" and a long chord being S20°35'15"E 26.20 feet; thence S41°15'29"E 186.85 feet; thence S89°38'11"E 377.75 feet; thence S05°34'50"E 428.06 feet along the West right-of-way line of the Detroit & Mackinaw Railroad (previously Penn Central Railroad); thence N89°43'17"W 618.67 feet (recorded as S89°42'20"E 619.15 feet) along the North line of said certified survey to the point of beginning.

TOGETHER WITH the benefits set forth in a certain Joint Easement and Agreement to Dedicate dated January 14, 1977 and recoded January 14, 1977 in Liber 221, Pages 341 through 348, Otsego County records.

Parcel ID: 69-101-033-000-035-00

Street Address: 504 Random Lane, Gaylord, Michigan.