

**12.1700**

**TAX EXEMPTION ORDINANCE NO. 13**

**CITY OF GAYLORD**

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with an Authority-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, et seq.) (the "Act").

**THE CITY OF GAYLORD ORDAINS:**

**12.1701** Sec. 1.

This Ordinance shall be known and cited as the "City of Gaylord Tax Exemption Ordinance No. 13 - Northwind Apartment Homes".

**12.1702** 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 low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City of Gaylord 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 low income persons and families is a public necessity, and as the City of Gaylord will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City of Gaylord acknowledges that the Sponsor (as defined below) has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Northwind Apartment Homes on certain property as particularly described on Exhibit A attached hereto in the City of Gaylord to serve low income persons and families, and that the Sponsor has offered to pay the City of Gaylord on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

**12.1703** Sec. 3. **Definitions.**

A. Authority means the Michigan State Housing Development Authority.

- B. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges exclusive of utilities.
- C. Contract Rents means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.
- D. Low Income Persons and Families means persons and families eligible to move into a housing project.
- E. Mortgage Loan means a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of the housing project, and secured by a mortgage on the housing project.
- F. Sponsor means Excel-Deal 20 Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan.
- G. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

**12.1704**      Sec. 4.      **Class of Housing Projects.**

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan by the Authority. It is further determined that Northwind Apartment Homes is of this class.

**12.1705**      Sec. 5.      **Establishment of Annual Service Charge.**

The housing project identified as Northwind Apartment Homes and the property on which it will be located (as described on Exhibit A) shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The City of Gaylord acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to construct and operate the housing project, the City of Gaylord agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to five (5%) percent of the Annual Shelter Rents actually collected by the housing project during each operating year.

**12.1706**      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 of Gaylord and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

**12.1707**      Sec. 7.            **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 project that is tax exempt but 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 project if the housing project were not tax exempt.

**12.1708**      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. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq.).

**12.1709**      Sec. 9.            **Duration.**

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid, provided that the construction of the project commences within two (2) years from the effective date of this Ordinance.

**12.1710**      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 this 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.

**12.1711**      Sec. 11.          **Inconsistent Ordinances.**

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

**12.1712**      Sec. 12.          **Effective Date.**

This Ordinance shall become effective on October 12, 2014, as provided in the City of Gaylord Charter.

## EXHIBIT A

### PARCEL A:

COMM AT THE NE CORNER OF LOT 1 BLOCK 3 OF THE ORIGINAL PLAT OF THE CITY OF GAYLORD, TH S 89DEG12'14"E ALG THE N LINE OF SAID BLOCK 3, 217.00 FT TO THE POB, TH CONT S 89DEG 12'14"E 82.27 FT TO A POINT 25.00 FT WESTERLY OF THE CENTERLINE OF THE MAIN TRACK OF THE RAILROAD FORMERLY MICHIGAN CENTRAL RR COMPANY, TH S 03DEG54'18" W PARALLEL WITH AND 25 FT WESTERLY OF THE CENTERLINE OF THE MAIN TRACK OF THE RAILROAD, 319.32 FT, TH N86DEG05'42"W 100 FT TO THE EAST LINE OF SAID BLOCK 3, TH N 03DEG 54'18"E ALG SAID EAST LINE 49.96 FT, TO THE S LINE OF LOT 4, BLOCK 3; TH NORTH 89DEG 17'44"W ALG SAID S LINE, 185.31 FT TO THE WEST LINE OF SAID BLOCK 3; TH N00DEG54'19"E ALG SAID WEST LINE 117.83 FT, TH S 89DEG 12'18"E 144.92 FT., TH 50.00 FT A LG AN ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 32.00 FT, DELTA ANGLE OF 89DEG 31'18" AND A CHORD BEARING A DISTANCE OF N 46DEG 57'56"E 45.07 FT, TH N 03DEG 54'18"E 52.54 FT, TH S86DEG 02'58" E 33.38 FT, TH N 04DEG 04'24"E 64.28 FT TO THE POB CONT 1.24 ACRES SPLIT ON 01/27/2006 FROM 103-130-000-155-00, 100-000-003-001-00 100-000-003-002-00, 100-000-003-003-00; DESC FROM AN UNRECORDED SURVEY FROM MITCHELL AND ASSC JOB NUMBER 045442-02. BEING TAX IDENTIFICATION NUMBER: 103-130-000-155-01.

### PARCEL B:

BEG AT A PT ON S/L OF MITCHELL ST BEING THE NW COR OF LOT 1 BLK 3, TH S 89 DEG 12'14"E ALG THE NORTH LINE OF SAID BLOCK 3, 217.00 FT, TH S 04 DEG 04'24" W 64.28 FT, TH N 86 DEG 02'58" W 33.38 FT, TH S 03DEG54'18" W 52.54 FT, TH 50 FT ALG AN ARCH OF A NON TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 32.00 FT, DELTA ANGLE OF 89DEG 31'18" AND A CHORD BEARING DISTANCE OF SOUTH 46DEG57'59"W 45.07 FT, TH N 89DEG12'18" W 144.92 FT TO THE WEST LINE OF SAID BLOCK 3, TH NORTH 00DEG 54'19" E ALG SAID WESTLINE 146.01 FT TO THE POB CONT .65 ACRES SPLIT ON 01/27/2006 FROM 103-130-000-155-00, 100-000-003-001-00, 100-000-003-002-00, 100-000-003-003-00; SURVEY FROM MITCHELL AND ACCOS JOB NUMBER 045442-02. BEING TAX IDENTIFICATION NUMBER: 100-000-003-001-01.