

AMENDED AND RESTATED PILOT HOUSING ORDINANCE

AN ORDINANCE TO ESTABLISH A TAX EXEMPTION ORDINANCE FOR A SERVICE CHARGE IN LIEU OF TAXES PURSUANT TO THE PROVISIONS OF ACT NO 364 OF THE PUBLIC ACTS OF MICHIGAN ON 1966 (MCL 125.1401, et. seq., MSA 116.114(1), et. seq., AS AMENDED). TITLE I COMMUNITY DEVELOPMENT, ARTICLE V MULTIPLE FAMILY DWELLING HOUSING TAX EXEMPTION.

THE CITY OF DURAND ORDAINS:

Section 1. This Ordinance shall be known and cited as the "City of Durand Tax Exemption."

Section 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 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 of 1966 (1966 PA 346, as amended, MCL 125.1401, et seq, MSA 116.114(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 persons of low and moderate income is a public necessity, and as the City will be benefited and improved by 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 determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The City acknowledges that Sycamore House Limited Dividend Housing Association LLC (the "Sponsor") has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to erect, own and operate a housing development identified as Sycamore House on certain property located at 100 Sycamore Street in the City to serve persons of low income, and that Sycamore House Limited Dividend Housing Association LLC ("Sycamore LDHA LLC") has offered to pay the City on account of this housing development an annual service charge for public services in lieu of all taxes.

Section 3. Definitions

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

- A. Act means the State Housing Development Authority Act, being public Act 346 of 1966 of the State of Michigan, as amended.

- B. Annual Shelter Rent means the total collection during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for electricity, water and sewer utilities furnished to the occupants.
- C. Authority means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.
- D. Housing Development means a development which contains a significant element of housing for persons of low 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 persons low income.
- E. Utilities mean fuel, water and sanitary sewer service and/or electrical service, which are paid by the Housing Development.
- F. Sponsor means a person(s) or entity, which has applied, to the authority for an allocation under the LIHTC Program to finance a Housing Development.

Section 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 tax shall be elderly rental housing, which are assisted pursuant to the Act. It is further determined that Sycamore Place (40 units) is of this class.

Section 5. Establishment of Annual Service Charge

The Housing Development identified as Sycamore Place and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction for a period of thirty-five (35) years. The City acknowledging 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 the 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. The annual service charge shall be equal to 3% of the difference between the Annual Shelter Rents actually collected and Utilities.

Section 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 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" as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

Section 7. Contractual Effect of Ordinance

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City 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.

Section 8. Payment of Service Charge

The annual 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 July 1st of each year.

Section 9. Duration

This Ordinance shall remain in effect for and shall not terminate so long as the Mortgage Loan remains outstanding and unpaid or the Authority has any interest in the property but shall not exceed thirty-five (35) years.

Section 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.

Section 11. Effective Date

This ordinance shall take full force and effect immediately upon its publication in a newspaper of general circulation within the City of Durand.

Moved by:

Seconded by:

YEAS:

NAYS:

ABSENT:

ABSTAIN:

City Clerk

Mayor