

BEAR CREEK TOWNSHIP
TAX EXEMPTION ORDINANCE

ORDINANCE NO. 10 - 99

ADOPTED: January 6 – 1999

EFFECTIVE: January 19 – 1999.

An ordinance to provide for a service charge in lieu of taxes for a proposed multiple family dwelling project 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 TOWNSHIP OF BEAR CREEK ORDAINS:

SECTION 1. This ordinance shall be known and cited as the "Bear Creek Township Tax Exemption Ordinance. "

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, MCLA Section 125.1401 et. seq., MSA Section 11 6,114(1) et. seq.). The Township 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 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 income is a public necessity, and as the Township 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 and financed in reliance on such tax exemption.

The Township acknowledges that RHP 96-1 (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 Hillside Club Apartments on certain property located at the southwest quadrant of the South Division Road/East Mitchell Road intersection in the Township to serve persons of low income, and that the Sponsor has offered to pay the Township on account of this housing development an annual service charge for public service in lieu of all taxes.

SECTION 3. DEFINITIONS.

- A. Authority means the Michigan State Housing Development Authority.
- B. Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
- C. 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, heat or other utilities furnished to the occupants.
- D. 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, (Delete if inapplicable.)
- E. 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 of low income.
- F. Mortgage Loan means a loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the Housing Development.
- G. Utilities means fuel, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development (Delete if inapplicable.)
- H. Sponsor means person(s) or entities, which have applied to the Authority for a Mortgage Loan to finance a Housing Development

SECTION 4. CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of Housing Development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be for Hillside Club Apartments, which are financed or assisted pursuant to the Act. It is further determined that Hillside Club Apartments is of this class.

SECTION 5. ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

The Housing Development identified as Hillside Club Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The Township, 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 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. The annual service charge shall be equal to 5% of the Annual Shelter Rents actually collected for the first five years following issuance of the Certificate of Occupancy of the apartments, increasing 1 % per year for each year thereafter through the 10th year. In the 11th year and thereafter this ordinance shall be void and of no further force and effect.

SECTION 6. 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 Township except that the annual payment shall be paid on or before the first day of May in the year following the year for which the payment is due. Nonpayment of the annual service charge shall result in the property going back on the tax rolls for general property tax purposes for the year in which the annual service charges are not paid and thereafter.

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 15(a)(7) of the Act.

SECTION 7. DURATION.

This Ordinance shall remain in effect and shall not terminate for ten years provided that construction of the Housing Development commences within one year from the effective date of this Ordinance. In the event that there is nonpayment of service charges, and the property goes back on the tax rolls for general property taxation purposes, this ordinance is automatically repealed.

SECTION 8. 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 9. EFFECTIVE DATE.

This Ordinance shall become effective on the first day after its publication. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

TOWNSHIP CLERK

1/13/99
DATE