

# COUNCIL COMMUNICATION

Council \_\_\_\_\_ moved that an ordinance introduced March 9, 2009, entitled and reading as follows, be taken up and enacted:

AN ORDINANCE TO ADD "LOW INCOME HOUSING TAX EXEMPTION FOR SAGINAW SHELTER FOR THE HOMELESS NON PROFIT HOUSING CORPORATION," TO THE TABLE OF SPECIAL ORDINANCES, VIII.

The City of Saginaw ordains:

Section 1. "Low Income Housing Tax Exemption for Saginaw Shelter for the Homeless Non Profit Housing Corporation," is hereby added to the Table of Special Ordinances VIII, of the City Of Saginaw Code Of Ordinances, O-1, and shall read as follows:

## **LOW INCOME HOUSING TAX EXEMPTION**

This ordinance shall provide for a service charge in lieu of taxes for an existing scattered site single 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.

(A) *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 to be paid in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL Section 125.1401 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

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further acknowledged that such housing for 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 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 or renovated and financed in reliance on such tax exemption.

The City acknowledges that for Saginaw Shelter for the Homeless Non Profit Housing Corporation (“Owner”) proposes, after renovation by Habitat for Humanity, to acquire a scattered site single family rental development. The City further acknowledges that Owner has offered, and subject to receipt of a repayable grant and/or Mortgage Loan from the Michigan State Housing Development Authority, after repair and renovation by Habitat for Humanity, to acquire, own and operate one or more Housing Developments on certain property located in the City of Saginaw, County of Saginaw, State of Michigan described on Exhibit A, which is kept on file with the City Clerk, the keeper of records for the City of Saginaw, and is incorporated herein by reference to serve persons of low income; that each Housing Development shall be maintained on a part of the property described on Exhibit A owned by Owner, a non profit housing corporation formed in accordance with the laws of the State of Michigan for the sole purpose of owning and operating that Housing Development; that the Owner of each phase on which a Housing Development exists or is constructed shall pay to the City on account of such Housing Development an annual service charge for public

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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 each Housing Development operated on any portion of the property described on Exhibit A that complies with and satisfies the provisions of this Ordinance.

(B) *Definitions.*

(1) Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

(2) 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.

(3) Authority means the Michigan State Housing Development Authority.

(4) Code means the U.S. Internal Revenue Code of 1986, as the same may be amended from time to time (or any corresponding provisions of any successor law).

(5) 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.

(6) 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 to improve the quality of the development as it relates to housing for Persons of Low Income.

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(7) Low Income Housing Tax Credits means tax credits allocated by the Authority to a Housing Development pursuant to Section 42 of the Code.

(8) Mortgage Loan means a loan to be made by the Authority to the Sponsor for the acquisition, renovation and/or permanent financing of the Housing Development.

(9) Persons of Low Income means low income persons or families as defined in Section 15(a)(7) of the Act.

(10) Sponsor means for Saginaw Shelter for the Homeless Non Profit Housing Corporation or person(s) or entities, formed or to be formed, which have applied to the Authority for a Mortgage Loan to finance a Housing Development and/or Low Income Housing Tax Credits.

(11) Utilities mean gas, electricity, water and sanitary sewer service, or other utilities furnished to the occupants and paid by the Housing Development.

(C) *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 scattered site single family units, which are financed or assisted pursuant to the Act and which are constructed or maintained upon the real property described on Exhibit A. It is further determined that a Housing Development for which a site plan has been submitted by a Sponsor and approved by the City, is of this class, so long as the same complies with the provisions of this Ordinance.

(D) *Establishment of Annual Service Charge.*

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A Housing Development and the real property forming a part of Exhibit A on which it has been constructed shall be exempt from all property taxes from and after the date hereof. The City, acknowledging that the Sponsor and the Owner 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 a Mortgage Loan or an allocation of Low Income Housing Tax Credits from the Authority to acquire, renovate, 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 for the Housing Development. The annual service charge shall be eight (8.0%) percent of Annual Shelter Rents.

(E) *Contractual Effect of Ordinance.*

Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and each Sponsor and Owner, 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.

(F) *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

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that the annual payment shall be paid on or before the first (1<sup>st</sup>) day of August of each year. Prior to the first day of June of each year, the Sponsor or Owner shall submit to the City a copy of its certified audit as submitted to the Authority in order for the City to verify the payment to be made hereunder.

(G) *Duration.*

This Ordinance shall remain in effect as to each Housing Development and shall not terminate so long as the property is subject to a Mortgage Loan, tax credit regulations under Section 42 of the Code, or the Authority has any interest in the property not to exceed 40 years after the date that the Owner acquires the Housing Development. Provided, however, that if renovation of a Housing Development does not commence within five years from the effective date of this Ordinance, that Housing Development shall not qualify for exemption hereunder.

(H) *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. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 2. This ordinance shall become effective April 2, 2009.

Enacted: March 23, 2009.

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