

CHAPTER 29  
STATE HOUSING AUTHORITY TAX EXEMPTION ORDINANCE

**29.01 SHORT TITLE.**

This Ordinance shall be known and cited as the State Housing Authority Tax Exemption Ordinance, and it shall be deemed sufficient in any action for enforcement of the provisions hereof, to define same by such title and reference to the number hereof.

**29.02 PURPOSE.**

The purpose of this Ordinance is declared as follows:

- (A) To declare the public necessity of the assistance of the City of Lapeer in developing and preserving housing for its elderly citizens of low and moderate income;

History: (Amnd 03-04-10;-)

- (B) To provide a binding agreement with the "Owner" or "Mortgagor" as defined herein establishing terms and conditions for the continuing status of tax exemption to the housing development;

- (C) To establish, by ordinance, real estate tax exemption status for elderly citizens of low and moderate income, dwelling within the "housing development", as defined herein, under Act 346 of the Public Acts of 1966, as amended ("Act 346");

History: (Amnd 03-04-10;-)

- (D) To establish an annual service charge for public services in lieu of all taxes to be paid by the owner to the City of Lapeer, and distribute pursuant to Act 346.

**29.03 DEFINITIONS.**

The following definitions shall apply:

- (A) ACT means the "State Housing Development Authority Act", Act 346 of the Public Acts of 1966, as amended, cited at MCL § 125.1401;

History: (Amnd 03-04-10;-)

- (B) AUTHORITY means the State Housing Development Authority, under Act 346;

- (C) AUTHORITY-AIDED MORTGAGE means a mortgage made, held, purchased or assisted by the Authority.

History: (Amnd 03-04-10;-)

- (D) FEDERALLY-AIDED MORTGAGE means a below market interest rate mortgage insured or purchased or held by the Secretary of the

Department of Housing and Urban Development ("HUD"); or a market interest rate mortgage insured by the Secretary of Housing and Urban Development, and augmented by a program of rent supplements; or a mortgage receiving benefits under other federal law designated specifically to develop low and moderate income housing, and consistent with the provisions of this Act.

**History: (Amnd 03-04-10;-)**

- (E) **LOW INCOME or MODERATE INCOME PERSONS** means families and persons who cannot afford to pay the amounts at which private enterprises, without federally-aided mortgages or loans from the authority are providing a substantial supply of decent, safe, and sanitary housing, and who fall within income limitations set by the authority in its rules. Among low income or moderate income persons, preference shall be given to the elderly, and those displaced by urban renewal, slum clearance, or other governmental action;

**History: (Amnd 03-04-10;-)**

- (F) **CITY or CITY COMMISSION** means the duly elected commission of the City of Lapeer;

**History: (Amnd 03-04-10;-)**

- (G) **ELDERLY** means a family where the head of the household is sixty-two (62) years of age or older, or a single person who is sixty-two (62) years of age or older, or in the event project based Section 8 subsidies are no longer available to the Project, it shall mean a single person who is 55 years of age or older or a household in which at least one member is 55 years of age and all other members are 50 years of age or older;

**History: (Amnd 03-04-10;-)**

- (H) **HOUSING DEVELOPMENT** means a development which contains a significant element of housing for 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 persons of low or moderate income and in which funds from the authority's note and bond financing are used for no elements of such development, other than housing projects for low income or moderate income persons;

**History: (Amnd 03-04-10;-)**

- (I) **OWNER or MORTGAGOR** means Silver Maple Village 2009 Limited Dividend Housing Association L.L.C., a Michigan limited liability company, and its heirs, successors and assigns;

**History: (Amnd 03-04-10;-)**

- (J) **UTILITIES** means fuel, water, sanitary sewer service and/or electrical service which are paid by the Development;

**History: (Amnd 03-04-10;-)**

- (K) PROJECT means a certain housing development to be acquired and renovated by the owner, identified as the "Elderly Building" which consists of one hundred (100) one (1) and two (2) bedroom apartments on Dewey Boulevard, which:

History: (Amnd 03-04-10;-)

1. shall be financed by a federally-aided mortgage or loan made by the authority.
2. dwelling units shall be occupied exclusively by elderly citizens of low and moderate incomes;
3. Legal Description: Part of the N.E. ¼ of Section 6, T. 7 N., R. 10 E., CITY OF LAPEER, LAPEER COUNTY, MICHIGAN, being described as: Beginning at a point, said point being distant N. 87° 47' 10" E. 679.62 ft. along the North Section Line of said Section 6, said line also being the Center Line of Oregon Street and S. 02° 14' 37" E. 1066.86 ft. from the N. ¼ corner of said Section 6; Thence from said point of beginning N. 87° 15' 40" E. 300.00ft.; Thence N. 02° 14' 37" W. 150.00 ft.; Thence N. 87° 15' 40" E. 415.00 ft.; Thence N. 48° 08' 50" E. 84.01 ft.; Thence S. 41° 51' 10" E. 287.51 ft.; Thence S. 49° 06' 25" E. 126.50 ft.; Thence S. 42° 30' 14" W. 77.40 ft.; Thence 97.96 ft. along the arc of a curve to the left, said curve having a radius of 123.68 ft., a central angle of 45° 22' 44", a chord length of 95.42 ft. and a chord bearing of S. 19° 48' 51" W.; Thence S. 87° 15' 40" W. 965.02 ft.; Thence N. 02° 14' 37" W. 270.00 ft. to the point of beginning, containing 7.94 acres more or less and subject to easements of record.

The above 7.94 acres, as described is that portion of the total 29.94 acre project set aside for the three-story senior citizens building requiring tax abatement.

#### **29.04 DECLARATION OF PUBLIC NECESSITY AND BENEFIT; ACKNOWLEDGMENT OF OFFER.**

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 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 of 1966 (1966 P.A. 346, as amended, MCLA Section 125.1401 et. seq., MSA Section 16.114 (1) et. seq.). The City is authorized by said 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 the 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 elderly by persons of low and moderate income is a public necessity, and as the City will be benefitted and improved by

such housing, the encouragement of the same by providing certain real estate tax exemption therfor is a valid public purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and a service charge in lieu of taxes during the periods hereinafter contemplated are essential to the determination of economic feasibility of housing developments which are constructed or renovated and financed in reliance thereon.

History: (Amnd 03-04-10;-)

The City acknowledges that the "owner" has offered, subject to receipt of a Mortgage Loan from the Authority, to acquire, renovate, own, and operate a housing development identified as the "project" under Section 29.03 (J) of this Ordinance on certain property located at Dewey Boulevard, in the City, to serve elderly persons of low and moderate income, and that the "owner" has offered to pay the City on account of said Development an annual service charge for public services in lieu of all taxes.

History: (Amnd 03-04-10;-)

#### **29.05 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 "owner" with the Authority and HUD as third party beneficiaries thereunder, to provide tax exemption and accept payments in lieu thereof as previously described is effected by enactment of this Ordinance.

History: (Amnd 03-04-10;-)

#### **29.06 TAX EXEMPTION TO PROJECT; TERMS.**

Pursuant to Act 346 of the Public Acts of 1966, the Project, as defined herein is declared exempt from all taxes imposed by the State or by any political subdivision public body, or taxing district.

Such exemption shall remain in effect under conditions where the owner or mortgagor shall:

- (A) Devote the entire Project, and its rental units to the exclusive occupancy of elderly citizens of low and moderate income, as defined by rule of the authority;
- (B) Allocate the full benefits of any exemption granted to the Project under the Act, and any ordinance of the City exclusively to elderly citizens of low and moderate income in the form of reduced housing charges;

#### **29.07 ACKNOWLEDGMENT AND ACCEPTANCE.**

The City, acknowledging that the "owner" 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 qualifications of the Housing Development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the "owner's" offer, subject to receipt of a mortgage loan from the Authority, to acquire, renovate, own, and

operate said Housing Development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

History: (Amnd 03-04-10;-)

#### **29.08 ANNUAL SERVICE CHARGE FOR PUBLIC SERVICES. DISTRIBUTION.**

During the period of exemption, the owner or mortgagor, its successors or assigns, shall pay to the City an annual service charge for public services, in lieu of taxes, on or before July 1<sup>st</sup> of each year in an amount equal to four percent (4%) of the contract rents (as defined by the rules promulgated pursuant to the Housing and Community Development Act of 1974 as amended) of the preceding calendar year, exclusive of the cost of fuel, electricity, water and sanitary sewer service, paid by the Project. In the event the Project no longer receives project based Section 8 subsidies from HUD, contract rents shall mean all rental income paid by on behalf of the tenants from the preceding calendar year exclusive of the cost of fuel, electricity, water and sewer services paid by the Project.

History: (Amnd 03-04-10;-)

In any event, the annual service charge to be paid each year in lieu of taxes for that part of the Project which is occupied by other than elderly persons of low and moderate income, shall be equal to the full amount of taxes that would be paid on that portion of the Project if it were not tax exempt.

All annual service charges collected by the City shall be distributed pursuant to Section 15A of Act 346 to the several taxing units.

#### **29.09 PROVISIONS OPERATIVE UPON EXEMPTION CERTIFICATION.**

These provisions shall become fully operative upon notice to the Assessor for the City by the owner or mortgagor, its successors or assigns of the certification of tax exemption by the authority for the Project in accordance with the provisions of the Act.

#### **29.10 PERIOD OF EFFECTIVENESS.**

This Ordinance shall remain in effect for the period of time in which the Project is encumbered by an outstanding federally-aided, or authority-aided mortgage, or so long as the authority has any legal interest in the property; provided that acquisition and renovation of the housing development commences within one (1) year from the effective date of this Ordinance.

History: (Amnd 03-04-10;-)

#### **29.11 SEVERABILITY.**

If any section, clause, or phrase, or portion thereof in this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**29.12 EFFECTIVE DATE**

This Ordinance following publication in accordance with the law shall become effective on the date the Project is acquired by the Owner.

**History: (Originally introduced by the City Commission 08-14-78; Originally adopted by the City Commission 08-21-78; Original effective date 08-30-78;-)**

Amendments introduced at a meeting of the City Commission for the City of Lapeer, this 15<sup>th</sup> day of February, 2010.

Amendments adopted at a meeting of the City Commission for the City of Lapeer, this 1<sup>st</sup> day of March, 2010.

Publication of adopted amendment: March 4, 2010.

**ROLL CALL VOTE:**

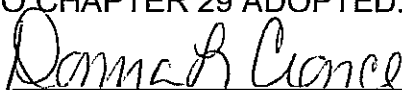
**AYES:** Commissioners Bostick-Tullius, Farrington, Robinet, Marquardt, and Bennett.

**NAYS:** None.

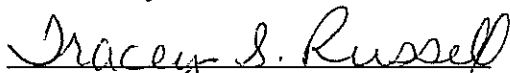
**ABSENT:** None.

**ABSTAIN:** None.

**MOTION CARRIED. AMENDMENTS TO CHAPTER 29 ADOPTED.**

  
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Donna L. Cronce, MMC  
City Clerk, City of Lapeer


Subscribed and sworn to before me  
This 4<sup>th</sup> day of March, 2010.

  
\_\_\_\_\_  
Tracey S. Russell, Notary Public,  
State of Michigan, Lapeer County  
My Commission Expires: 07-30-2010  
Acting in the County of Lapeer

STATE OF MICHIGAN        )  
  )  
  )        SS  
COUNTY OF LAPEER        )

I, Donna L. Cronce , Clerk of the City of Lapeer, do hereby certify that the foregoing is a true and complete copy of an amended ordinance adopted by the Commission of the City of Lapeer on March 1, 2010, at a regular Commission meeting.

IN WITNESS WHEREOF, I have hereto affixed my official signature this 4<sup>th</sup> day of March A.D. 2010.

Signed:   
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Donna L. Cronce, MMC  
City Clerk, City of Lapeer