

Village of Deerfield

An ordinance of the Village of Deerfield to provide for a service charge in lieu of taxes for a proposed multiple family project for elderly persons and persons of low or moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL Section 125.1402 et.seq.)

THE VILLAGE OF DEERFIELD ORDAINS:

Section 1. Title. This ordinance shall hereafter be known and cited as “Village of Deerfield Tax Exemption Ordinance.”

Section 2. Authority. 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.*). The Village 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 persons of low income is a public necessity, and as the Village will be benefitted and improved by such housing the encouragement of the same by providing certain real estate tax exemption therefore 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 periods hereinafter contemplated are essential to the determination of economic feasibility of housing developments which are constructed and/or rehabilitated and financed in reliance thereon.

Section 3. Definitions.

- 3.1 *Authority* means the Michigan State Housing Development Authority.
- 3.2 *Act* means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.
- 3.3 *Annual Shelter Rent* means the total collections during an agreed annual period from and on behalf of all occupants of a housing development representing rent or occupancy charges, exclusive of owner-paid utilities as herein defined.
- 3.4 *Contract Rents* are as defined by the U.S. Department of Housing and Urban Development (“HUD”) in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of

1974.

- 3.5 *Housing Development* means a development which contains a significant element of housing for a person of low or moderate income and elements of other housing, commercial, recreational, industrial, communal and educational facilities that the Authority determines improve the quality of the development as it relates to housing for persons of low or moderate income.
- 3.6 *Elderly* means 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 or older and all other members are 50 years of age or older.
- 3.7 *Mortgage Loan* means a loan to be made by the Authority to the Sponsor for the acquisition, rehabilitation and permanent financing of a Housing Development. H. Utilities mean fuel, water, sanitary sewer services and/or electrical service which are paid by the Development.
- 3.8 *Owner* means A-Mac Rural Development, LDHA. LLC
- 3.9 *Sponsor* means persons or entities with a general partner interest in the Owner, which have applied to the Authority for a Mortgage Loan to finance a Housing Development.
- 3.10 *Village* means the Village of Deerfield

Section 4. Class of Housing Developments. It is hereby 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 taxes shall be that portion of the development, which is for persons of low income and, which is financed or assisted pursuant to the Act. It is further determined that all 16 units of Deer Run Apartments are of this class. The Village acknowledges that the Owner has offered, subject to receipt of a Mortgage Loan to rehabilitate, own and operate a housing development identified as Deerfield Run Apartments, on certain property located on 510 East River Street, Deerfield, Michigan (as described on Exhibit "A" attached hereto) in the Village to serve persons of low income, and that the Owner has offered to pay the Village an annual service charge for public services in lieu of all taxes.

Section 5. Establishing of Annual Service Charge. The Housing Development identified as the 16 unit Deerfield Run Apartments and the property on which it is located shall be exempt from all property taxes from and after the acquisition by the Owner. The Village, acknowledging that the Owner, the Authority and HUD 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 herein, and in consideration of the Sponsor's offer, subject to receipt of a Mortgage Loan, to rehabilitate, 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. The annual service charge shall be equal to four (4%) percent of the gross Contract Rents charged, including any Federal subsidy, but less owner paid utilities (or as otherwise provided in a Municipal Services Agreement between the parties). In the event the Development no longer receives project based Section 8 payments, the annual service charge shall be equal to four (4%) percent of the Annual Shelter Rents. In no event shall the service charge be less than \$2,400 per year.

Section 6. Contractual Effect of Ordinance. Notwithstanding the provisions of Section 15 (a) (5) of the Act, to the contrary, a contract between the Village and the Owner with the Authority as third party beneficiary thereunder, to provide tax exemption and accept payments in lieu thereof as previously described is effected by enactment of the Ordinance.

Section 7. Payment of Charge. The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable to the Village except that the annual payment shall be paid on or before February 1st for the preceding year's service charge.

Section 8. Duration. The provisions of this Ordinance shall become effective upon acquisition of the Development by the Owner and shall remain in effect and shall not terminate as long as the Mortgage Loan remains outstanding and unpaid or the Authority or Sponsor or HUD have any interest in the property provided that the acquisition of the Housing Development occurs within one year from the effective date of this Ordinance.

Section 9. Severability. The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Section 10. Repeal. All Ordinances of the Village of Deerfield, or any amendments, thereto, which are in conflict, are, to the extent of such conflict, repealed, provided however, that such repeal shall be effective only upon the acquisition of the Development by the Sponsor as provided in Section 8.

Section 11. Effective Date; Publication. This Ordinance shall take effect upon publication as required by law.

ORDINANCE DECLARED ADOPTED ON APRIL 11, 2011.

The Village Clerk shall publish this Ordinance in the manner prescribed by law.

YEAS: 7

NAYS: 0

ABSENT: 0

Todd Nighswander
President, Deerfield Village

CERTIFICATE OF ADOPTION AND PUBLICATION

I, Sandra Witt, the duly elected Clerk of the Village of Deerfield certify that the foregoing Ordinance is a true and correct copy of the Ordinance enacted by the Village Council of the Village of Deerfield on April 11, 2011 and published in the Adrian Daily Telegram, a newspaper circulated in the Village of Deerfield on April 15, 2011.

Sandra Witt
Deerfield Village Clerk