

ORDINANCE NO. #11-2300

AN ORDINANCE TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A PROPOSED MULTIPLE FAMILY DWELLING PROJECT FOR SENIOR 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 CITY OF ISHPEMING ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the "City of Ishpeming Tax Exemption Ordinance No. 11-2300"

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 senior 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*). The City of Ishpeming 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 senior 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 and financed in reliance on such tax exemption.

The City acknowledges that Jasperlite Senior Housing Limited Dividend Housing Association LLC, (the "Sponsor") has offered, subject to receipt of Low Income Housing Tax Credits or a Mortgage Loan from the Michigan State Housing Development Authority or the U.S. Department of Agriculture, to erect, own, and operate a housing development identified as Jasperlite Senior Housing on certain property located at 185 S. 4th Street, Ishpeming, Michigan 49849, in the City of Ishpeming to serve senior persons of low income, and that the Sponsor has offered to pay the City on account of the housing development an annual service charge for public services 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. Housing Development means a development which contains a significant element of housing for senior 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 senior persons of low income.
- E. Low Income Housing Tax Credits means state or federal tax credits allocated to the Sponsor for the construction and/or permanent financing of the Housing Development.
- F. Mortgage Loan means a loan to be made to the Sponsor for the construction and/or permanent financing of the Housing Development.
- G. Utilities mean fuel, water, sanitary sewer, storm sewer, and/or electrical service which are paid by the Housing Development.
- H. Sponsor means person(s) or entities which have applied for a federally-aided mortgage or to the Authority for a Mortgage Loan or Low Income Housing Tax Credits to finance a Housing Development, which for purposes of this Ordinance is Jasperlite Senior Housing Limited Dividend Housing Association LLC.
- I. Miscellaneous all terms and provisions used in this Ordinance, and not otherwise defined in this Section 3 shall have the same meaning as used or as identified or defined in the Act.

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 taxes shall be those serving senior low income persons or families, which are financed or assisted pursuant to the Act. It is further determined that Jasperlite Senior Housing is of this class.

SECTION 5. Establishment of Annual Service Charge.

Subject to the provisions of Section 7(b) herein, the Housing Development identified as Jasperlite Senior Housing and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The City acknowledges 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 federally-aided Mortgage Loan, Mortgage Loan from the Authority, or Low Income Housing Tax Credits from the Authority, to construct, own and operate the Housing Development, the City 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 4% of the difference between the Annual Shelter Rents actually collected and the expenses for Utilities actually paid by the Sponsor.

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 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. Contractual Effect of Ordinance.

- A. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor, with a federally-aided mortgage or 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. The Sponsor shall provide to the City an unqualified written acceptance of the terms of this Ordinance on or before DATE, and in default thereof the City may repeal the Ordinance.
- B. Anything to the contrary in this Ordinance notwithstanding and as a part of the contract referred to in Section 7(a) above, and irrespective of any term or provision in the Act or in any mortgage document executed by the owner of Jasperlite Senior Housing, the tax exemption granted under Section 5 of this Ordinance to Jasperlite Senior Housing shall be of no force and effect, and shall be null and void, unless on or before December 30, 2019, the Sponsor furnishes to the Ishpeming City Manager written proof satisfactory to the City Manager that the owner of Jasperlite Senior Apartments has spent in excess of Seven Hundred Fifty Thousand Dollars (\$750,000) on hard and soft costs to construct Jasperlite Senior Housing. The expenditure of more than Seven Hundred Fifty Thousand Dollars (\$750,000) required in order to obtain the tax exemption granted under this Ordinance shall be in addition to the acquisition cost of the land. This condition is imposed based upon written assurances given to the City of Ishpeming by the Sponsor that the Sponsor intends to invest over \$750,000 to construct Jasperlite Senior Housing, which written assurances are a material reason for and the most significant factor in influencing the City of Ishpeming to grant the tax exemption provided by this Ordinance.
- C. If the Sponsor fails to provide satisfactory written proof to the City Manager on or before December 30, 2019 that the Sponsor has spent in excess of Seven Hundred Fifty Thousand Dollars (\$750,000) on hard and soft costs for the construction of the project known as Jasperlite Senior Housing, thereby causing the tax exemption granted under Section 5 herein

to become null and void, then pursuant to the powers granted to the City under Section 15(a)(2) of the Act, the service charge to be paid by the Sponsor shall be in the same amount as the real property taxes that would be paid if Jasperlite Senior Housing was not granted any tax exemption under the Act.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of property taxes, as determined under this Ordinance, shall be paid to and collected by the City in the same manner as general property taxes, except that the annual service charge shall be paid in one (1) annual payment, which annual payment shall be paid to the City on or before May 1 of each year for the previous calendar year. If all or any part of the annual service charge is not paid when due, the City shall have a lien for all such unpaid amounts, plus interest and penalties, against the real property comprising the Jasperlite Senior Housing, and the collection of the unpaid amounts shall be collected in the same manner as unpaid taxes on real property are collected under the provisions of the General Property Tax Laws of the State of Michigan. If all or any part of the service charge is not paid when due, the City shall send written notice of such delinquency to the Sponsor at 1125 Commerce Drive, Marquette, MI 49844; and to the Authority at 735 East Michigan Avenue, Lansing, MI 48912 Attn: Director of Legal Affairs.

SECTION 9. Duration.

Subject to the provisions of Section 7(b) and Section 7(c) above, the provisions of Section 5 of this Ordinance shall remain in effect and shall not terminate so long as the Mortgage Loan remains outstanding and unpaid, the Authority has any interest in the property, or a land use restriction for affordable housing remains on the property; provided, that construction of the Housing Development identified as Jasperlite Senior Housing commences within three years from the effective date of this Ordinance; and provided further that in no event shall the exemption granted under Section 5 of this Ordinance continue for more than 30 years. In the event that Jasperlite Senior Housing fails to meet the requirements in Section 7(b) above, then this Ordinance may be amended in the sole discretion of the Ishpeming City Council.

SECTION 10. Filing of Annual Audit

The Sponsor, or its successor, shall file simultaneously with the City Manager a copy of all annual audits required to be provided to any agency of the federal government, to any agency of the State of Michigan, and/or required to be provided to the Authority with respect to Jasperlite Senior Housing. Every audit filed with the City Manager shall include detail with respect to occupancy of the Jasperlite Senior Housing, Annual Shelter Rents actually collected by Jasperlite Senior Housing, and the cost of Utilities during the audit period.

SECTION 11. 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; provided, however, that if any section or provision of this Ordinance is found to be invalid, unconstitutional, or unenforceable, then the Ishpeming City Council reserves the right to amend, modify, or change such section or any other provision to bring this Ordinance into compliance with the law.

SECTION 12. Effective Date.

This Ordinance shall become effective immediately upon final adoption as provided in the Charter. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.


ORDINANCE DECLARED ADOPTED.



Tammie Leece, City Clerk

Approved as of First Reading: February 8, 2017
Adopted: March 22, 2017
Published: March 23, 2017

I hereby certify that the foregoing is a true and complete copy of an Ordinance No. 11-2300 adopted by the City Council of the City of Ishpeming, County of Marquette, Michigan at a special meeting held on March 22, 2017 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.



Tammie Leece, City Clerk