



CITY OF YPSILANTI
NOTICE OF ADOPTED ORDINANCE
Ordinance No. 1395
TAX EXEMPTION ORDINANCE

An ordinance to provide for a service charge in lieu of taxes for a housing project for low income elderly persons and households to be financed with a federally-aided Mortgage Loan pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended MCL 125.1401, *et seq*) (the “Act”).

THE CITY OF YPSILANTI ORDAINS

SECTION 1. This Ordinance shall be known and cited as the “City of Ypsilanti, Michigan Tax Exemption Ordinance – 845 W. Clark”

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 low-income elderly persons and households and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City of Ypsilanti (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 further acknowledged that such housing for low income elderly persons and households 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. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of housing projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that Clark Road Senior Limited Dividend Housing Limited Partnership (the “Sponsor”) has offered subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority (the “Authority”), to construct, own and operate an elderly housing project identified as 845 W Clark on certain property located at 845 W Clark Road in the City to serve low income elderly persons and households, and that the

Sponsor has offered to pay the City on account of this housing development an annual service charge for public services in lieu of all *ad valorem* property taxes.

SECTION 3. Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

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

B. Annual Shelter Rent means the total collections during an agreed annual period from all occupants of a housing development or any amount paid to the Sponsor on behalf of any occupant representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

C. Authority means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.

D. 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.

E. Housing Development means a project which contains a significant element of housing for low income elderly persons and households and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the project as it related to housing for low income elderly person and households.

F. Housing for the Elderly means housing occupied by a single person who is 55 years of age or older, or housing occupied by a family and/or household in which at least one member is 55 years of age or older.

G. LIHTC Program means the Low Income Housing Tax Credit Program administered by the Authority pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

H. Mortgage Loan means a loan that is federally-aided or a loan or grant made to the Sponsor, or such entity formed by the Sponsor to own the Housing Development, for the construction, rehabilitation, acquisition and/or permanent financing of a Housing Development and secured by a mortgage on the Housing Development.

I. Sponsor means person(s) or entity, which has or will apply to the Authority for an allocation under the LIHTC Program to construct, own and operate a Housing Development. The Sponsor means Clark Road Senior Limited Dividend Housing Association Limited Partnership

and any entity that receives or assumes a mortgage loan and is an eligible mortgagor under the Act.

J. Utilities mean gas, water, sanitary sewer service, electrical service, and other utilities furnished to the occupants which are paid by the Housing Development.

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 Housing for the Elderly that are financed with a Mortgage Loan. It is further determined that 845 W Clark is of this class.

SECTION 5. Establishment of Annual Service Charge.

The Housing Development identified as 845 W Clark and the property on which it is located shall, subject to the limitations and conditions of this Ordinance, be exempt from all *ad valorem* property taxes from and after the commencement of construction of the project. The City acknowledges that that Sponsor and Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes as established in this Ordinance. In consideration of the Sponsor's offer, subject to receipt of an allocation under the LIHTC Program from the Authority, to construct, own and operate the Housing Development, the City agrees to accept payment of an annual service charge or public services in lieu of all *ad valorem* property taxes. The annual service charge shall be \$100.

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 that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes that would be paid on that portion of the Housing Development if the Housing Development were not tax exempt.

The term "low income" as used herein shall be the same as found in Section 15(a)(7) of the Act.

SECTION 7. 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 Sponsor with 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, However, nothing contained in this Ordinance shall

constitute a waiver of any rights the City may possess or exercise under the provisions of Section 15(a)(2) of the Act, provided the exercise of such rights does not, in the opinion of the Authority, impair the economic feasibility of the Housing Development.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of taxes, as determined under this Ordinance, shall be payable to the City and distributed to the several units levying the general property tax in accordance with Section 15a(4) of the Act. The annual payment for each operating year shall be paid on or before April 15th of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq.*).

SECTION 9. Documentation Supplied.

On or before April 1 of each year, the Sponsor shall file with the City audited financial statement showing all revenues for the Housing Development, including but not limited to rent or occupancy charges and subsidies received from the Housing Development and expenses, including utilities. The City shall determine the applicable service charge in accordance with Section 5. The City may require such other or further financial information as may be necessary to accurately determine the service charge due pursuant to this Ordinance. The City shall submit a statement for the service charges for each year by September 1. Failure of the City to provide such statement or failure of Sponsor to receive such statement shall not invalidate any service charge owed pursuant to this Ordinance.

SECTION 10. Duration.

Provided that the Sponsor acquires the Property and construction of the Housing Development commences within eighteen (18) months of the effective date of this Ordinance, this Ordinance shall remain in effect and shall not terminate, except as provided in this Section 10, for such period as the Authority or other governmental entity has any interest in the property; provided, however, that City may terminate the PILOT, upon written notice and opportunity to cure, in the event the Annual Service Charge is not paid or the Project is in material violation of the City Code, the Building Code, or any related codes. .

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 an 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 12. Effective Date.

This ordinance shall become effective on September 22, 2022 or as otherwise provided in the Charter.

MADE, PASSED, AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS 23rd DAY OF AUGUST, 2022.

Andrew Hellenga, City Clerk

Attest

I do hereby confirm that the above Ordinance No. 1395 was published in the Washtenaw Legal News on the 1ST day of September, 2022.

Andrew Hellenga, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the 23rd day of August, 2022.

Andrew Hellenga, City Clerk

Notice Published: July 21, 2022

First Reading: August 9, 2022

Second Reading: August 23, 2022

Published: September 1, 2022

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