

CITY OF WAKEFIELD

ORDINANCE NUMBER 173-TAX EXEMPT ORDINANCE

An Ordinance to provide for a service charge in lieu of taxes for a proposed multiple 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.

**THE CITY OF WAKEFIELD ORDAINS:**

**SECTION 1.** This Ordinance shall be known and cited as the "City Tax Exemption Ordinance."

**SECTION 2. Preamble.**

It is acknowledged that it is a proper public purpose of the State of Michigan and it's political subdivisions to provide housing for it's 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., MSA Section 116.114 (1) 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 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 and financed in reliance on such tax exemption.

The City acknowledges that Wakefield Development and L.L.C. (the "Sponsor") has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC), to erect, own, and operate a housing development identified as Memorial Building Housing on certain property located at M-28 West of Smith Street and North of the Original Plat in the City of Wakefield to serve persons of low income, 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 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 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.
- D. 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 improve the quality of the development as it relates to housing for persons of low income.
- E. Reserved for definition of class (i.e. elderly, family, handicapped, etc., to which this Ordinance shall apply.)
- F. Sponsor means person(s) or entities which have applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.
- G. Utilities means fuel, water, sanitary sewer service and/or electrical service which are paid by the Housing Development for general use and not for specific apartment units.

### 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 low income family housing, which are financed or assisted pursuant to the Act. It is further determined that Memorial Building Housing Limited Dividend Housing Corporation is of this class.

**SECTION 5. Establishment of Annual Service Charge.**

The Housing Development identified as Memorial Building Housing Limited Dividend Housing Corporation 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, acknowledging 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 an allocation under the LIHTC program, to construct, own, and operate the Housing Development, 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 3% of the difference between the Annual Shelter Rents actually collected and Utilities.

**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.**

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.

**SECTION 8. 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 that the annual payment shall be paid on or before August 14<sup>th</sup> of each year.

**SECTION 9. Duration.**

This Ordinance shall remain in effect and shall not terminate so long as the Authority's Mortgage remains outstanding and unpaid or the Authority has any interest in the property, but not more than 45 years, or the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, provided that construction of the Housing Development commence within one year from the effective date of this Ordinance.

**SECTION 10. 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 effect 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 11. Acknowledgment.**

The city hereby acknowledges receipt of documentation from the Authority indicating that the Authority's participation with the Housing Development is limited solely to the allocation of tax credits under the Low Income Housing Tax Credit Program.

**SECTION 12. Effective Date.**

This Ordinance shall become effective upon publication, or as otherwise provided in the Charter. All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

ADOPTED: 6/26/, 2000

EFFECTIVE: \_\_\_\_\_, 2000

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Marsha J. Vestich, City Clerk