

ORDINANCE NO. 29

TAX EXEMPTION ORDINANCE.

An ordinance to provide for a service charge in lieu of taxes for a multiple family dwelling project for persons of low to moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

THE CHARTER TOWNSHIP OF BIG RAPIDS ORDAINS:

**SECTION 1.** This Ordinance shall be known as the “2018 Ryan Creek LDHA tax Exemption Ordinance.”

**SECTION 2. PREAMBLE.** It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivision to provide housing for its citizens of low to 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 PA 346, as amended, MCLA Section 125.1401 et. Seq., MSA Section 16.114 (1) et. seq.) The Township 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 to moderate income is a public necessity, and as the Township 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 Township acknowledges that Ryan Creek Limited Dividend Housing Association Limited Partnership (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 Ryan Creek Apartments on certain property located at 16 Mile Road in the Township to serve persons of low to moderate income, and that the Sponsor has offered to pay to the Township on account of this Housing Development an annual service charge for public services in lieu of all taxes.

The Township acknowledges that it enacted the Ryan Creek LDHA tax Exemption Ordinance No. 28 on February 5, 2002, effective January 1, 2003, that was to remain in effect for a period of fifteen years after the certificate of occupancy was obtained.

**SECTION 3. DEFINITIONS.** All terms shall be defined as set forth in the State Housing Development Authority Act 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 for 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 persons of low income.

**E. Elderly** means a single person who is fifty five (55) years of age or older or a household in which at least one (1) member is fifty five (55) years of age and all other members are fifty (50) years of age or older.

**F. Sponsor** means persons or entities which have applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a 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 taxes shall be housing developments for elderly persons and persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that Ryan Creek Apartments is of this class.

**SECTION 5. ESTABLISHMENT OF ANNUAL SERVICE CHARGE:** The Housing Development identified as Ryan Creek Apartments and the property on which it was constructed shall be exempt from all property taxes from and after the year the project is placed in service as evidenced by a certificate of occupancy from the appropriate public official. The Township 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 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 six percent (6%) of the Annual Shelter Rents actually collected, but in no case shall the service charge be less than \$13,000 per year.

**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 part of the Housing Development 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) (15) of the Act, to the contrary, a contract between the Township and the Sponsor with the Authority as a 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 except that the estimated annual payment shall be paid on or before February 14 of each year. The Sponsor shall submit a statement from an independent auditor, which shall be acceptable by the Sponsor and the Township, verifying the amounts used to compute the payment are correct as reported. The statement and supporting documents which may be from the sponsor's federal tax return shall be due by February 28 following the tax year. Any adjustment in payment shall be made on that date. Any claim for overpayment will be adjusted in the next December 31 payment.

**SECTION 9. DURATION.** This Ordinance shall remain in effect for a period of ten years so long as the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, and provides housing to citizens of low to moderate income and receives financing through the State Housing Development Authority.

**SECTION 10. REPEAL AND AMENDMENT.** This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a tax exemption ordinance no. 28 adopted by the Township on February 5, 2002 entitled:

An ordinance to provide for a service charge in lieu of taxes for a multiple family dwelling project (Ryan Creek Apartment Complex) for persons of low to moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, Public Act 346 of 1966, being M.C.L.A 125.1401 et seq., as amended.

**SECTION 11. CONTINUING EFFECT.** The ordinance shall run with the land described herein and be binding upon the successors and/or assigns of the Sponsor of the Housing Development.

**SECTION 12. TERMINATION.** Notwithstanding anything contained herein to the contrary, should the sponsor fail to pay the final adjusted service charge in lieu of taxes granted hereunder or fail to provide the verification of the calculations used to make the payment, in accordance with Section 8 of this Ordinance, the service charge in lieu of taxes granted by this ordinance shall automatically be terminated, retroactive to January 1 of that year. The Township shall file a notice of termination to the Sponsor of the Housing Development and the Authority by certified mail within thirty (30) days of such termination.

**SECTION 13. SEVERABILITY.** The various sections and provisions of this Ordinance shall be deemed to be severable, 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.

**SECTION 14. ACKNOWLEDGMENT.** The Township 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 15. EFFECTIVE DATE.** This Ordinance shall become effective on August 7, 2018. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

We certify that the foregoing Tax Exemption Ordinance was duly enacted by the Big Rapids Charter Township Board of the CHARTER TOWNSHIP OF BIG RAPIDS, MECOSTA COUNTY, MICHIGAN, on the 7th day of August, 2018.

Attest:

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William Stanek, Charter Township Supervisor

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Rene Fountain, Charter Township Clerk