

HAMPTON CHARTER TOWNSHIP  
BAY COUNTY, MICHIGAN

ORDINANCE NO. 55

AN ORDINANCE TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A PROPOSED MULTI-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 BOARD OF TRUSTEES OF THE CHARTER TOWNSHIP OF HAMPTON BAY COUNTY, MICHIGAN, ORDAINS:

SECTION 1. - Title. This Ordinance shall be known and cited as “The Hampton Charter Township Hampton Chase Apartments Tax Exemption Ordinance.”

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 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 125.1401 et seq; MSA 16.114 (1) et seq). The Township 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 Township will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption therefore is a valid public purpose.

The continuance of the provisions of this ordinance for tax exemption and the service charge in lieu of taxes during the period provided in this ordinance are essential to the

determination of economic feasibility of this housing development which is constructed and financed in reliance upon such tax exemption.

The Charter Township of Hampton acknowledges that MHT Housing, Inc. ("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 Hampton Chase Apartments on certain property located in the Charter Township of Hampton, Bay County, Michigan, and more particularly described as:

The North Half (N1/2) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) of Section 19, Town 14 North, Range 6 East, EXCEPT the South 190 Feet of the West 230 feet thereof.

The housing development shall serve persons of low income and the sponsor has offered to pay the Charter Township of Hampton annual service charge in lieu of real 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 in addition to which the following terms shall apply:

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

B. Housing Development means a development which contains significant elements 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.

C. Eligible Residents shall be those residents whose total household income shall not exceed sixty percent of the median household income, as determined annually by the Department

of Housing and Urban Development (HUD), or by such successor entity as designated by the IRS.

D. Utilities mean gas, water, sanitary sewer service and/or electrical service which are paid by the Housing Development.

E. 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. For purposes of this Ordinance, the Sponsor shall be MHT Housing, Inc.

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 multiple-family dwellings located in the Charter Township of Hampton which are financed or assisted pursuant to the Act.

SECTION 5. - Establishment of Annual Service Charge.

A. The Housing Development identified as Hampton Chase Apartments and the property on which it shall be constructed shall be exempt from all real property taxes in accordance with this section and other applicable sections of this ordinance. The Charter Township of Hampton 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 by this ordinance. 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, the Charter Township of Hampton 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 a percentage of the actual annual shelter rents.

B. The service charge to be paid each year in lieu of taxes for that part of a housing project 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 project if the project were not tax exempt.

C. The benefits of the exemption granted under this section shall be allocated by the owner of the housing project exclusively to low income persons or families in the form of reduced housing charges.

D. The annual service charge shall be paid in lieu of taxes for 30 years or for so long as the project shall be qualified as affordable housing as defined by Section 42 of the Internal Revenue Code, whichever occurs sooner, subject to the following schedule:

| <u>YEAR</u>       | <u>ANNUAL SERVICE CHARGE</u> |
|-------------------|------------------------------|
| 1                 | 4.0%                         |
| 2                 | 4.0%                         |
| 3                 | 4.5%                         |
| 4                 | 5.0%                         |
| 5                 | 5.5%                         |
| 6                 | 6.0%                         |
| 7                 | 6.5%                         |
| 8                 | 7.0%                         |
| 9                 | 7.5%                         |
| 10                | 8.0%                         |
| 11                | 8.5%                         |
| 12                | 9.0%                         |
| 13                | 9.5%                         |
| 14 and thereafter | 10.0%                        |

E. The term "low income persons or families" as used herein shall have the same meaning as found in Section 15a (7) of the Act.

F. In the event the Sponsor refinances its underlying debt obligations which results in

more favorable financing to the Sponsor than that upon which the schedule in Section 5 (D) is based, then in such event the annual service charge shall be adjusted and increased accordingly, relative to the improvement in financing realized by the Sponsor, subject only to the Act and to such other terms as may be agreed upon between the Charter Township of Hampton and the Sponsor. It is expressly agreed, however, that the percentages set forth in Section 5 (D) Shall not be decreased nor the length of the schedule increased.

SECTION 6. - Service Charge for the First Year.

The service charge for the first year of the tax exemption for housing developments consisting of new construction shall be equal to the ad valorem property tax which would have been assessed to the property as of the normal tax date for the first exemption year, based on a valuation of the property as it existed prior to the commencement of the construction.

SECTION 7. - Payment of Service Charges.

The service charge in lieu of taxes as determined hereunder shall be payable and collectible in the same manner as general property taxes are payable to the Township except that the annual payment shall be paid on or before June 1 of each year for the preceding year.

SECTION 8. - Supporting Documentation

The annual service charge payment shall be accompanied by the Sponsor's audited financial statement or other documentation as Hampton may reasonably request from time to time, which provides the following applicable information:

- A. Apartment or member carrying charges.
- B. Tenant assistance payments.
- C. Furniture and equipment rental payments.

- D. Store and commercial enterprise payments.
- E. Garage and parking space payments.
- F. Subsidy income.
- G. Excess rents/tenant recovery.
- H. Total vacancies for the period.

In addition, the payment shall be accompanied by an explanation specifically identifying those portions of the payment which are attributed to the following:

1. Total collections during the preceding year from all occupants representing rent or occupancy charges exclusive of charges for utilities.
2. That portion of the service charge, if any, imposed upon that part of the housing project which is occupied by other than low income persons or families computed pursuant to Section 5.B. of this Ordinance; and
3. A statement from the Sponsor's auditor certifying that the benefits of the exemption granted under this Ordinance have resulted in reduced housing charges allocated by the owner of the housing project exclusively to low income persons or families.

SECTION 9. - Contractual Effect of Ordinance.

Notwithstanding the provisions of Section 15a (5) of the Act, a contract between the Charter Township of Hampton and the Sponsor to provide a tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance, which shall be governed by the terms of this Ordinance.

SECTION 10. - Housing Projects Currently Exempt From Taxation

Those housing projects which are currently exempt from taxation and are already making payment in lieu of tax (PILOT) payments shall not be affected nor shall the terms of the tax

exemption and PILOT payments for those housing projects be changed by reason of the passage of this Ordinance.

SECTION 11. - Duration.

This Ordinance shall remain in effect so long as the PILOT is qualified and paid pursuant to Section 5 above; provided, however, that if construction of the Housing Development does not begin within one year of the effective date of this Ordinance, this Ordinance shall terminate.

SECTION 12. - Severability.

The various sections and provisions of this Ordinance shall be deemed to 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.

SECTION 13. - Effective Date.

This ordinance shall become effective immediately upon publication after adoption by the Hampton Charter Township Board of Trustees.