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CITY OF LUDINGTON

MASON COUNTY

ORDINANCE NO. 524-23

**AN ORDINANCE TO AMEND CHAPTER 54 OF THE CODE OF ORDINANCES OF
THE CITY OF LUDINGTON TO ESTABLISH A LOW INCOME HOUSING TAX CREDIT
PAYMENT-IN-LIEU-OF-TAXES (PILOT) PROGRAM**

THE CITY OF LUDINGTON ORDAINS:

Section 1. Addition of Article VI. The following provisions are hereby added to and incorporated as part of Chapter 54 as Article VI thereof:

Article VI. LIHTC PILOT Ordinance

Section 54-60. – Title.

This ordinance shall be known and cited as the “Ludington Low Income Housing Tax Credit PILOT Ordinance.”

Section 54-61. – Findings & Purpose.

The City Council of the City of Ludington (“City”) hereby finds, determines, and acknowledges that it is a proper public purpose for the State of Michigan and its political subdivisions like the City of Ludington to encourage the development of housing for its low-income persons and families and to do so by providing for payment of an annual service charge for public services in lieu of ad valorem property taxes (a “payment in lieu of taxes” or “PILOT”) in accordance with the State Housing Development Authority Act of 1966 (Public Act 346 of 1966, as amended; codified at MCL §125.1401, *et seq*; hereinafter, the “Act”). The City is authorized by the Act (MCL §125.1415a) to establish or change the service charge to be paid in lieu of such 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 housing for persons and families 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 a 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 property taxes during the periods contemplated in this Ordinance are essential to the determination of economic feasibility of housing development projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption. The City Council deems this ordinance to be necessary in order to serve the interests of the city and to protect the health, safety, and general welfare of the City’s residents, business owners, property owners, and the community as a whole.

Section 54-62. – Definitions.

All terms shall be defined as set forth in Michigan's State Housing Development Authority Act of 1966 (Public Act 346 of 1966; MCL §125.1401 *et seq.*), as amended, except as follows:

Act means the State Housing Development Authority Act, being Michigan Public Act 346 of 1966, codified at MCL §125.1401 *et seq.*, as amended.

Annual shelter rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing development project representing rent or occupancy charges, exclusive of Utilities.

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

County means Mason County, Michigan.

Contract Rents means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing development project during an agreed annual period, exclusive of Utilities.

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 related to housing for persons of low income.

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.

Low Income Persons and Families means persons or families eligible to move into a housing development project.

Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority, for the construction, rehabilitation, acquisition, and/or permanent financing of a housing development project, and secured by a mortgage on the housing project.

PILOT Resolution means a project-specific resolution adopted by the City Council that approves a housing development project for exemption under this ordinance.

Sponsor means any person(s) or an entity(ies) that receive or assume a Mortgage Loan.

Taxable value means taxable value as calculated under Section 27a of Michigan's General Property Tax Act, being Michigan Public Act 206 of 1893, codified at MCL §211.27a.

Utilities means charges for gas, electricity, heat, water, sanitary sewer, or other utilities furnished to the occupants and paid for by the housing project and/or its sponsor.

Section 54-63. – Class of Housing Development Projects.

It is determined that the class of housing development projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of all ad valorem property taxes shall be housing development projects for Low Income Persons and Families that are financed with a Mortgage Loan.

Section 54-64. – Establishment of Annual Service Charge.

Housing projects within the eligible Class set forth in Section 54-63 above and the property on which they are or will be located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority, in the case of a Sponsor receiving an Authority-financed Mortgage Loan, or the Sponsor and the mortgage lender, in the case of a Sponsor receiving a Federally-aided Mortgage Loan, have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing projects for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, the City will accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. The annual service charge shall be equal to a percentage of the Annual Shelter Rents or Contract Rents actually collected by the housing project during each operating year, as established by a Resolution adopted by the City Council.

Section 54-65. – Resolution; Contractual Effect of Ordinance.

A Resolution of the City Council granting tax exempt status and establishing the annual service charge, as provided in this Ordinance, shall be adopted for each housing project qualified under the terms and provisions of this 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 from ad valorem taxes and to accept payments in lieu of taxes, as previously described, will be effectuated upon adoption of such a Resolution by the City Council.

Section 54-66. – Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 54-64, the service charge to be paid each year in lieu of taxes for the part of a housing project 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 which would be paid on that portion of the housing development project if the housing project were not tax exempt.

Section 54-67. – Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance or the Resolution shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before October 9th of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (Public Act 206 of 1893, as amended; codified at MCL §211.1 *et seq.*).

Sec. 54-68. – Duration.

The tax exempt status of a housing project approved for such status by Resolution of the City Council shall remain in effect and shall not terminate so long as a Mortgage Loan for such housing project remains outstanding and unpaid.

Sec. 54-69. - Severability. The provisions of this Ordinance shall be deemed to be severable, and should any provision be declared by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such declaration shall not affect the validity of the remainder of this Ordinance as a whole or provision of this Ordinance, other than the provision so declared to be unconstitutional or invalid. The City Council finds, determines, and declares that it would have adopted this Ordinance and each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses is declared invalid.

Section 54-70. – Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

Sections 54-71.—54-80. – Reserved.

Section 2. Severability.

If any section, clause, or provision of this ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such declaration shall not affect the remainder of the Article. The City Council hereby declares that it would have adopted this Article and each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses is declared invalid.

Section 3. Repeal.

All ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Section 4. Effective Date.

This Ordinance shall become effective 20 days following its introduction, adoption and publication as required by law.

Adopted on _____, 2023.

Deborah L. Luskin, City Clerk