

CITY OF WAKEFIELD
ORDINANCE 185

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 State Housing Development Authority Act of 1966, as amended.

SECTION 1. Title.

This Ordinance shall be known and cited as the "City of Wakefield Housing Development Authority Tax Exemption Ordinance for Riverview Apartments."

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, and codified at MCLA 125.1401 et.seq.; MSA 116.114 (1) et.seq.) ("the Act"). The Act authorizes the City to establish or change a service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act in any amount it chooses, not to exceed the taxes that would be paid but for the Act. It is further acknowledged that because such housing for persons of low income is a public necessity, and because the City will be benefited and improved by such housing, the City's encouragement of such housing by providing certain real estate tax exemptions 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 taxes during the periods 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, this Ordinance and the service charge.

The City acknowledges that the Riverview Apartments-Wakefield Limited Dividend Housing Association Limited Partnership (the "Sponsor") has offered, subject to receipt of a Mortgage Loan or an allocation under the Low Income Housing Tax Credit ("LIHTC") from the Michigan State Housing Development Authority, to rehabilitate, own, and operate a housing development identified as Riverview Apartments on certain property located at 201, 203, 205 and 207 Nunnemacher Street in the City of Wakefield to serve persons of low income. The City further acknowledges 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 property taxes.

SECTION 3. Definitions.

- A. "Act" shall mean the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
- B. "Annual Shelter Rents" shall mean the total collections during an agreed annual period from all occupants of a housing development representing rents or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.
- C. "Authority" shall mean the Michigan State Housing Development Authority.
- D. "Housing Development" shall mean a supportive housing development that 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. "Mortgage Loan" shall mean a loan to be made by the Authority to the Sponsor for the construction and permanent financing of the Housing Development, or a loan to be made or insured by HUD.
- F. "Persons of Low Income" shall mean persons or families whose yearly income makes them eligible to move into a Housing Development that is tax exempt, as defined in Section 15a of the Act and as may be further defined in the rules promulgated by the Authority.
- G. "Sponsor" shall mean persons or entities who have applied to either the Authority for a Mortgage Loan or for an allocation under the Low Income Housing Tax Credit Program, or to another governmental entity for a federally-aided loan, as defined by the Act, to finance a Housing Development. The Riverview Apartments-Wakefield Limited Dividend Housing Association Limited Partnership is presently the Sponsor of the Housing Development identified in Section 5 of this Ordinance.
- H. "Utilities" shall mean fuel, water, sanitary sewer service and/or electrical service that are paid by the Housing Development.

SECTION 4. Class of Housing Developments.

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 Family Housing for Persons of Low Income, which is financed or assisted pursuant to the Act. It is determined that the Housing Development identified as "Riverview Apartments" is of this class.

SECTION 5. Establishment of Annual Service Charge.

The Housing Development identified as "Riverview Apartments" and the property on which it is constructed shall be exempt from all property taxes from and after the commencement of the construction of it's rehabilitation. 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 a Mortgage Loan or an allocation under the Low Income Housing Tax Credit program from the Authority, to rehabilitate, 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 for the Housing Development identified as "Riverview Apartments" shall be equal to eleven and eighty-nine hundredths percent (11.89%) of the difference between the Annual Shelter Rents actually collected and Utilities, except as provided below.

The annual service charge to be paid in lieu of taxes for the part of the Housing Development that is tax exempt and that is occupied by Persons of Low Income shall not exceed an amount equal to the taxes that would be paid but for the tax exemption granted under this Ordinance. The annual service charge to be paid in lieu of taxes for the part of the Housing Development that is tax exempt and that is occupied by persons other than Persons of Low Income 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.

SECTION 6. 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 7. Payment of Service Charge.

The annual service charge determined pursuant to section 5 of this 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 July 1 of each year. On or before May 15 of each year, the Sponsor shall file with the City a certification by the Authority showing the number of units in Riverview Apartments occupied by Persons of Low Income as of December 31 of the previous year. The Sponsor shall also provide, on or before May 15 of each year, documentation and accounting records showing the rent or occupancy charges received from those units from the period of January 1 through April 30. The City shall project those revenues over twelve months and compute the service charge payable July 1 based on those projections. The City

shall invoice the Sponsor no later than June 1 of each year for the service charge due on July 1. On or before January 15 of each year, the Sponsor shall file with the City documentation and accounting records showing the rent or occupancy charges received from those units considered to be occupied by Persons of Low Income during the previous year. The City shall then finally determine the service charge for the previous year. Any additional service charge shall be payable by the Sponsor on demand. Any overpayment of service charge shall be promptly refunded to the Sponsor by the City. In providing the certificate referenced in this section, the Authority shall only be required to verify the income of the unit occupants at the time of initial occupancy.

The annual service charge to be paid in lieu of taxes shall become a lien against the property and the Housing Development and, if delinquent, shall be subject to the same interest, penalties, collection charges, and enforcement mechanisms as general property taxes, except that an unpaid annual service charge shall not be returned as delinquent to the County Treasurer. Without affecting it's right under this section, the City Treasurer may, in his or her name, or in the name of the City, institute a civil action against the owner of the Housing Development in the Gogebic County Circuit Court to recover the amount of the unpaid annual service charge and interest, penalties, and collection charges on the annual service charge plus the costs of collecting said amounts, including reasonable attorneys' fees.

SECTION 8. Duration.

Provided that construction of the rehabilitation of the Housing Development commences within one year from the effective date of this Ordinance and is completed in a manner substantially as proposed in the attached Exhibit A within fourteen (14) months from the date that title and ownership of the Riverview Apartments property is transferred to the Sponsor, this Ordinance shall remain in effect and shall not terminate: (a) so long as the Mortgage Loan remains outstanding and unpaid, or (b) for such period as the Authority or other governmental entity has any interest in the property, or (c) for a period of twenty (20) years, whichever is shorter.

The rehabilitation of the Housing Development shall be completed within fourteen (14) months from the date that title and ownership of the Riverview Apartments property is transferred to the Sponsor and in a manner substantially as proposed in the attached Exhibit A. Failure to complete the project within that time and in such a manner shall result in the immediate termination of this Ordinance, and in such event, the Sponsor shall repay the City the full amount of tax abatement the Sponsor received during the time the Ordinance was in effect.

SECTION 9. 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, such declaration shall not affect the validity of this 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 10. Inconsistent Ordinances.

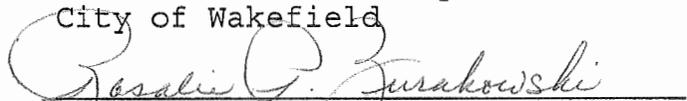
All Ordinances or any parts of any Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict, including but not limited to Section 10 of the City of Wakefield Housing Development Authority Tax Exemption Ordinance adopted on June 14, 2004, being Ordinance Number 185.

SECTION 11. Effective Date.

This Ordinance was approved and adopted by the City Council of the City of Wakefield, Gogebic County, Michigan on June 14, 2004, after introduction and a first reading as required by the City Charter. This Ordinance shall become effective on June 25, 2004.



Richard W. Bolen, Mayor
City of Wakefield



Rosalie P. Zurakowski, City Clerk
City of Wakefield

CERTIFICATION

I, Rosalie P. Zurakowski, the Clerk for the City of Wakefield, do hereby certify that the foregoing City of Wakefield Housing Development Authority Tax Exemption Ordinance for Riverview Apartments was adopted at a regular meeting of the City of Wakefield Council held on Monday, June 14, 2004. The following members of the City Council were present at that meeting: Councilmembers Picoldi, Bolen, Ozzello, Anderson, and Koruga, and the following members of the City Council were absent: None.

The Ordinance was adopted by City Councilmembers: Anderson, Bolen, Picoldi, Ozzello and Koruga voting in favor and no one voting in opposition. The Ordinance was published in the Wakefield News on June 24, 2004.


Rosalie P. Zurakowski, City Clerk