

# CHAPTER 881

## Low Income Housing Tax Exemption

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### CROSS REFERENCES

- Tax limit - see CHTR. Sec. 80
- Taxation generally - see CHTR. Ch. IX
- Continuation of taxes - see CHTR. Sec. 173
- Tax exemptions generally - See Ch. 880
- State Housing Development Authority Act - see MCLA 125.1401
- Exemptions - see MCLA Secs. 141.632, 141.642, 141.652, 141.654, 141.655
- Municipal tax rates - see MCLA Secs. 211.107a, 211.203
- Assessment of taxes - see ADM. 230.05

### **881.01 TITLE.**

This chapter shall be known as the "Low Income Housing Tax Exemption".  
(Ord. 431. Passed 12-4-95.)

### **881.02 PURPOSE.**

It is acknowledged that it is a proper 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; MCL 125.1401 et seq.; MSA 16.114(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 benefitted and improved by such housing, that the exemption for such housing is a valid public purpose and 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 Ordinance and service charge. The tax exemption established in §15a of the Act shall not apply to any class of housing projects unless designated by ordinance. This ordinance shall not affect the tax exemption currently enjoyed by any housing development within the City. (Ord. 431. Passed 12-4-95.)

### **881.03 DEFINITIONS.**

As used in this chapter:

LOW INCOME HOUSING TAX EXEMPTION

- (a) "Act" means the State Housing Development Authority Act, being Act No. 346 of the Public Acts of 1966 of the State of Michigan, as amended.
- (b) "Annual shelter rents" means the total collections during an agreed annual period from Persons of Low Income who occupy a Housing Development representing rents or occupancy charges, exclusive of charges for gas, electricity, heat, water and sanitary sewage service 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) "Mortgage loan" means a loan to be made by the Authority to the Sponsor for the construction and permanent financing of the Housing Development.
- (f) "Persons of low income" means households in which the total income of the occupants, as determined by rules of the United States Department of Housing and Urban Development, does not exceed sixty percent (60%) of the median income of Grand Traverse County.
- (g) "Sponsor" means persons or entities which have applied to the Authority for a mortgage loan to finance a Housing Development and their successors and assigns in relation to the Housing Development.

(Ord. 431. Passed 12-4-95.)

**881.04 CLASS OF HOUSING DEVELOPMENTS.**

It is determined that the class of Housing Developments to which the tax exemption under this Ordinance shall apply shall be Housing Developments constructed after the effective date of this Chapter which receive financing from a federally-aided or Authority-aided mortgage or advance or grant from the authority; which contain a mixture of at least thirty percent dwelling units for occupancy by Persons of Low Income and not more than seventy percent of other dwelling units for households in which the total income exceeds sixty percent of the median income for Grand Traverse County for the duration of the tax exemption.

(Ord. 564. Passed 6-3-02. Ord. 566. Passed 6-17-02.)

**881.05 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.**

Housing Developments for Persons of Low Income and the property on which they shall be constructed shall be exempt from all property taxes commencing on the thirty-first day of December in the year in which the notice required under §15a(1) of the Act is filed with the local assessor. 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 will accept payment of an annual service charge for public services in lieu of all property taxes.

(Ord. 431. Passed 12-4-95.)

**881.06 LIMITATION ON SERVICE CHARGE.**

Notwithstanding Section 881.05, the service charge to be paid each year in lieu of taxes for that part of the Housing Development which is exempt and which is occupied by other than Persons of Low Income 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.  
(Ord. 431. Passed 12-4-95.)

**881.07 RESOLUTION; CONTRACTUAL EFFECT.**

A Resolution of the City Commission granting tax exempt status, as herein provided, (hereafter called the "Resolution") shall be adopted for each Housing Development qualified under the terms and provisions of this ordinance. The amount of the annual service charge for that part of the Housing Development which is occupied by Persons of Low Income shall be established in the Resolution. Notwithstanding the provisions of §15a(5) of the Act to the contrary, a contract to provide tax exemption and accept payments in lieu of taxes as previously described will be effectuated by and between the City and the Sponsor, with the Authority as third-party beneficiary under the contract, by adoption of such a Resolution by the City Commission and the filing of the notice required under §15a(l) of the Act with the local assessor.  
(Ord. 431. Passed 12-4-95.)

**881.08 PAYMENT OF ANNUAL SERVICE CHARGE.**

The annual service charge in lieu of taxes as determined under this ordinance and the Resolution described in Section 881.07, shall be payable in the same manner as general property taxes are payable to the City. The service charge shall be delinquent if not paid by the date after which property taxes incur interest and penalty. If delinquent, the service charge shall be subject to the same interest and penalty as delinquent real property taxes and shall be subject to the same collection proceedings, liens, and remedies by the City, County and State Treasurers as are delinquent real property taxes.

**881.09 DURATION.**

Unless terminated as herein provided, or as may be provided in the Resolution, the tax exempt status of a Housing Development approved for such status by Resolution of the City Commission shall remain in effect and shall not terminate so long as the mortgage loan for such Housing Development remains outstanding and unpaid, or for such period as the Authority or other governmental entity has any interest in the property. However, the construction of such Housing Development must commence within one year from the effective date of the Resolution of the City Commission approving the Housing Development for tax exempt status, as provided in this ordinance or the Resolution shall be void and of no effect.  
(Ord. 431. Passed 12-4-95.)

**881.10 TERMINATION.**

A tax exempt status pursuant to this chapter and the Resolution shall automatically be void and of no effect if any monies due as a service charge required by the Resolution or thereunder, are delinquent for more than ten days after written notice of such delinquency is given to the Sponsor by mail unless a greater time to cure is established in the Resolution.  
(Ord. 431. Passed 12-4-95.)

**881.11 SEVERABILITY.**

## LOW INCOME HOUSING TAX EXEMPTION

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same 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.

(Ord. 431. Passed 12-4-95.)

### **881.12 INCONSISTENT ORDINANCES.**

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are superseded by this ordinance to the extent necessary.

(Ord. 431. Passed 12-4-95.)