

CITY OF CRYSTAL FALLS

**ORDINANCE NO. 1.12
(AS AMENDED)**

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 PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, AS AMENDED.

THE CITY OF CRYSTAL FALLS ORDAINS THAT:

SECTION 1.

This ordinance shall be known and cited as the City of Crystal Falls 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 low income citizens and to encourage the development of such housing. Pursuant to the State Housing Development Authority Act (1966 PA 346, as amended, MCL 125.1401, et seq.) (The Act), such housing is exempt from all ad valorem property taxes. The Act provides for an annual service charge for public services in lieu of property taxes. The City is authorized by the Act to establish the service charge to be paid in lieu of ad valorem property taxes which amount is limited by the Act.

The City acknowledges that the Hovey Companies (the Developer) has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to erect, own and operate a housing development identified as The Crystal Manor, on property located at 400 Superior Avenue in the City of Crystal Falls, to serve persons of low income, and that the Developer has offered to pay the City an annual service charge for public services in lieu of all taxes for tax years beginning after the construction commences. Pursuant to the Act, the Developer shall file, with the assessor of the City, a certified notification of the exemption before November 1 of the year preceding the tax year in which the exemption is to begin.

SECTION 3. Definitions.

- A. Authority or MSHDA means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.

- B. Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
- C. Annual Shelter Rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.
- D. Developer means person(s) or entities which have applied to the Authority for a Mortgage Loan to finance a Housing Development.
- E. 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 improves the quality of the development as it relates to housing for persons of low income.
- F. LIHTC Program means the Low income Housing Tax Credit Program administered by the Authority under Section 42 of the internal Revenue Code of 1986, as amended.
- G. Mortgage Loan means a loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the Housing Development.
- H. Utilities mean fuel, water, sanitary sewer service and/or electrical service which are paid by the Housing Development.

SECTION 4. Establishment of Annual Service Charge.

The Housing Development identified as the Crystal Manor and the property on which it shall be constructed shall be exempt from all property taxes, pursuant to the Act, for the tax year after the commencement of construction. The City acknowledges that the Developer has signed a Development Agreement with the City in reliance upon the enactment and continuing effect of this Ordinance. The Developer, subject to approval of its application which will be filed with MSHDA no later than December 31, 2009, and subject to receipt of a Mortgage Loan from the MSHDA, shall construct, own and operate the Housing Development known as Crystal Manor, and the City agrees to 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 4% of the difference between the Annual Shelter Rents actually collected and Utilities.

SECTION 5. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5 of the Act, the service charge to be paid each year in lieu of taxes for the part of the Housing Development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of ad valorem property taxes which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt. Further, any commercial or retail development located on this property shall pay the full amount of ad valorem property taxes, as determined by the local assessor.

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 Developer 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 this Ordinance.

SECTION 7. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and other taxing authorities except that the annual payment shall be paid on or before September 15 of each year.

SECTION 8. Duration.

This Ordinance shall remain in effect and shall not terminate as long as the Mortgage Loan remains outstanding and unpaid; and as 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, but in no event no longer than fifty (50) years, provided that construction of the Housing Development commences within eighteen months from the effective date of this Ordinance.

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, 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 10. Effective Date.

This Ordinance shall become effective upon approval by the City Council. All

ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Introduced: December 11, 2006

Approved: January 8, 2007

Published: January 17, 2007

Effective: January 8, 2007

Amendment introduced: June 8, 2009 (Change date in Section 4)

Amendment approved: July 13, 2009

Amendment published: July 22, 2009

Amendment effective: July 13, 2009

Amendment introduced as an Emergency Ordinance: August 10, 2009

(Delete Section 10 – Acknowledgement)

Amendment approved: August 10, 2009

Amendment published: August 19, 2009

Amendment effective: August 10, 2009

Amendment introduced: August 10, 2009