

TAX EXEMPTION ORDINANCE

The City of Au Gres, County of Arenac, State of Michigan ORDAINS:

Ordinance No. 46

Adopted: January 8, 2013

Effective: Upon Publication

Amended: July 2, 2013

An Ordinance to establish the **AUGRES RIVERSIDE LDHA LP**, as its own housing project class exempt from ad valorem property taxes under the State Housing Development Authority Act of 1966, and to establish the terms and conditions of a service charge in lieu of such ad valorem property taxes.

Section 1. Ordinance Title.

This Ordinance shall be known and cited as the "Au Gres Riverside LDHA LP, PILOT Exemption Ordinance."

Section 2. Preamble.

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, being codified at MCLA §§ 125.1401, et seq) **MSA Section 16,194 (1) et,seq.**) The City of Au Gres 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 provided by the Au Gres Riverside LDHA LP project, the encouragement of the same by providing certain real estate tax exemption for such project, as a class, is a valid public purpose; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated in this Ordinance are deemed essential to the economic feasibility of the Au Gres Riverside LDHA LP project, the developers of which have invested substantially in its rehabilitation due to aging fixtures and components.

In this latter respect, the City acknowledges that Au Gres Riverside LDHA LP (the "Sponsor" as defined in Section 4 of this Ordinance) has committed to rehabilitate, own and operate the Riverside Manor Apartments on certain property located at 530 North Main Street, within the City of Au Gres, Michigan, which is legally described in Section 4.0 of this Ordinance, to serve Low Income or Moderate Income Persons" and that the Sponsor has offered to pay and will pay to the City, on account of the Housing Development, an annual service charge for public services in lieu of all taxes.

Section 3. Definitions.

- A. Authority means the Michigan State Housing Development Authority.
- 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. Contract Rents are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937 as amended.
- E. Housing Development means the Au Gres Riverside LDHA LP located at 530 North Main Street, Au Gres, Michigan, which development 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. The subject 530 North Main Street, Au Gres, Michigan premises are described as follows:

Parcel 1: LEGAL DESCRIPTION-SEE ATTACHED EXHIBIT "A"

- F. ~~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.~~
- F. Sponsor means Au Gres Riverside LDHA LP or any person(s) or entity that ~~receives or assumes a mortgage loan.~~ **has applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.**
- G. Utilities means fuel, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development.

Section 4. Class of Housing Development.

It is determined that the class of Housing Development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be the Au Gres Riverside LDHA LP development described in Section 3 E., above.

Section 5. Establishment of Annual Service Charge.

The Housing Development identified as Au Gres Riverside LDHA LP and the Property on which it shall be constructed shall be exempt from all property taxes for a period of sixteen (16) years beginning the calendar year **2014**. ~~2013~~. The City of Au Gres, acknowledging that the Sponsor has 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 an allocation under the LIHTC program,** ~~receipt of and no default occurring under a Mortgage Loan 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 shall be equal to the sum of (a) nine percent(9%) of the difference of Annual Shelter Rents actually collected, plus (b) the City's legal and other expenses incurred relative to the preparation of this Ordinance and the exemption provided herein and any future extension of modification thereof.

Section 6. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, 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 the taxes which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt. The term "low income persons or families" as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

Section 7. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City of Au Gres and the Sponsor, **with the authority as a third-party beneficiary**, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

Section 8. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the City of AuGres except that the annual payment shall be paid on or before the last day of February of each year.

Section 9. Filing of Annual Audit.

The Sponsor, or its successor, shall file a copy of any and all annual audits required to be provided to the federal government, the State of Michigan, and/or the Authority simultaneously with the City. The audit shall include detail with respect to occupancy of the Housing Development, Annual Shelter Rents received from the Housing Development, and the cost for utilities during the audit period.

Section 10. Duration.

This Ordinance shall remain in effect for sixteen (16) years from and after the 2012 2013 calendar year as aforesaid, after which the exemption provided herein will expire and the assessment of ad valorem taxes will recommence unless the City agrees to an extended or modified PILOT by separate Ordinance.

Section 11. 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 language other than the section or provision so declared to be unconstitutional or invalid.

Section 12. Conflicts-Repealer.

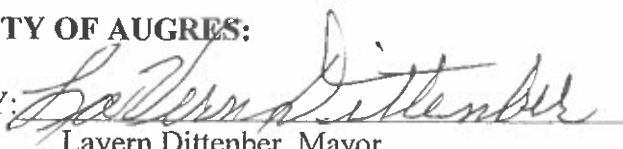
All Ordinances or parts of Ordinances in conflict with this Ordinances are repealed to the extent of such conflict. Without limitation, Ordinance No. 46, remains in full force and effect with respect to all other housing projects and classes thereof other than the Au Gres Riverside LDHA LP specifically provided herein.

CERTIFICATION

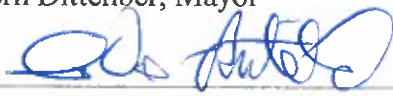
The foregoing is a true copy of Ordinance No. 46, which was enacted by the City Council of the City of Au Gres at a regular meeting held on the 8th day of January, 2013.

CITY OF AUGRES:

BY:


Lavern Dittenber, Mayor

BY:


LaVonne Pritchard, City Clerk

PREPARED BY:

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Amended July 2, 2013: Strikeouts deleted, bold added.

EXHIBIT "A"

**PRT OF LOT 1 BLK 15 COM AT NW COR SEC 18, TH S 02DEG 44MIN 00SEC W
ALNG W LINE OF SEC & C/L OF MAIN ST 442.90 FT, TH N 86DEG 04MIN 00SEC
33.23 FT E TO POB, TH CONT N 86DEG 04MIN 00SEC E 760 FT, TH S 02DEG 44MIN
SEC W 330 FT, TH S 86DEG 04MIN 00SEC W 760 FT, TH N 02DEG 44MIN 00SEC E
ALNG ELY R/W OF MAIN ST 330 FT TO POB. ACRES = 5.72**

CITY OF AU GRES
TAX EXEMPTION ORDINANCE # 46
ADOPTED: JANUARY 8, 2013
AMENDED: JULY 2, 2013

AMENDED AS FOLLOWS:

Section 2 Preamble: Add Line 5: MSA Section 16, 194 (1) et.seq.)

Section 3. Definitions: Delete F. 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. Sponsor received or assumes a mortgage loan.

Add Section F. has applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.

Section 5: Line 3 Delete 2013; add 2014; Line 7: add subject to receipt of an allocation under the LIHTC program; Delete: receipt of and no default occurring under a Mortgage Loan from the Authority .

Section 7: add with the authority as a third-party beneficiary.

Section 10. Duration. Line 1: Delete 2012; Add 2013

Published Amendment: July 31, 2013

BY: La Vonne Pritchard, City Clerk

BY: Tom Ennes, Mayor

A Complete Copy of Ordinance No. 46 made be inspected or obtained at the City Clerk Office, City of Au Gres, 124 W. Huron Rd., Au Gres, MI 48703.

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