

Ordinance #721

AN ORDINANCE TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A HOUSING PROJECT FOR LOW INCOME PERSONS AND FAMILIES TO BE FINANCED WITH AN AUTHORITY-AIDED MORTGAGE LOAN OR AN ADVANCE OR GRANT FROM THE AUTHORITY PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (1966 PA 346, AS AMENDED; MCL 125.1401, ET SEQ) (THE “ACT”).

THE CITY OF MARQUETTE ORDAINS:

Section 1. This Ordinance shall be known and cited as the “Black Rock Crossing 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 persons and families and to encourage the development of such housing providing for a service charge in lieu of property taxes in accordance with the Act. The City of Marquette 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 low income persons and families is a public necessity, and as the City of Marquette will be benefited and improved by such housing, the encouragement of the same by providing 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 taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City of Marquette acknowledges that the Sponsor (as defined below) has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct/acquire and rehabilitate, own and operate a housing project identified as Black Rock Crossing on certain property located at 1502 West Ridge Street in the City of Marquette to serve low income persons and families, and that the Sponsor has offered to pay the City of Marquette on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

Section 3. Definitions

- A. Authority means the Michigan State Housing Development Authority.
- B. Annual Shelter Rent means the total collections during an agreed annual period or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.
- C. 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 project during an agreed annual period, exclusive of Utilities.

D. 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.

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

F. 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 to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of the housing project, and secured by a mortgage on the housing project.

G. Sponsor means person(s) or entities which have received from the Authority a Mortgage Loan or an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.

H. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

Section 4. Class of Housing Projects

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan by the Authority. It is further determined that Black Rock Crossing is of this class.

Section 5. Establishment of Annual Service Charge

The housing project identified as Black Rock Crossing and the property on which it is located shall be exempt from all ad valorem property taxes from and after the commencement of construction. The City of Marquette acknowledges that the Sponsor and the Authority 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 project for exemption from ad valorem property taxes and a payment in lieu of taxes as established by this Ordinance. Therefore, in consideration of the Sponsor's offer to rehabilitate and operate the housing project, the City of Marquette agrees to accept payment of an annual service charge for public services in lieu of ad valorem property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to six percent (6%) of the Annual Shelter Rents actually collected by the housing project during each operating year.

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 of Marquette 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. 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 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 project if the housing project were not tax exempt.

Section 8. Payment of Service Charge

The 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 Marquette except that the annual payment shall be on or before September 14 of each year.

Section 9. Duration

This ordinance shall remain in effect until June 30, 2041 and shall not terminate so long as the Authority's Mortgage Loan remains outstanding and unpaid or the Authority has any interest in the property; or the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, provided that construction of the housing project commences within three years from the effective date of this Ordinance.

Section 10. 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 this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared unconstitutional or invalid.

Section 11. Inconsistent Ordinances

All Ordinances or parts of Ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 12. Effective Date

This Ordinance shall become effective on April 6, 2023 or as otherwise provided by law.

Cody O. Mayer, Mayor

Kyle Whitney, City Clerk

Adopted: _____

Published: _____