

Introduced: February 13, 2017
Adopted:
Effective:

CITY OF CHARLOTTE
ORDINANCE NO. 2017-_____

AN ORDINANCE TO AMEND CHAPTER 64 TAX
EXEMPTION BY ADDING DIVISION 2 TO ESTABLISH A
TAX EXEMPTION FOR THE EDMOND SENIOR
APARTMENTS ON SOUTH WASHINGTON STREET

Councilmember _____ moved that the following ordinance be passed to a second reading:

SECTION 1. PURPOSE. The City is authorized by State law to levy a service charge in lieu of property taxes for certain housing developments for individuals with low and moderate incomes. An ordinance establishing such a charge for the Sugar Mill Apartments complex was passed in 2002. This ordinance amends City code to establish a service charge in lieu of property taxes for a proposed senior housing development called the Edmond Senior Apartments to be located on South Washington Street.

SECTION 2. Chapter 64 of the Code of Ordinances is hereby amended to read as follows:

Division 1. Sugar Mill Apartments

§ 64-1 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for Sugar Mill Apartments Complex on Maynard Street."

 **§ 64-2 PREAMBLE.**

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate 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) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. 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 is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that Sugar Mill Limited Dividend Housing Association, Michigan Limited Partnership, ("the sponsor") 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 Sugar Mill Apartments (the "housing development") on certain property located on the 100 Block of Maynard Street in the city to serve senior citizens of low to moderate income, and 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 taxes.

§ 64-3 DEFINITIONS.

AUTHORITY. The Michigan State Housing Development Authority.

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. 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.

ELDERLY PERSONS. A family where the head of household is 62 years of age or older or a single person who is 62 years of age or older. Also includes persons of any age who are handicapped or disabled.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low to moderate 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 to moderate income.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

UTILITIES. Fuel, water, sanitary sewer service and/or electrical service, which are paid by the housing development.

SPONSOR. Person(s) or entities which have applied to the Authority for a mortgage loan to finance a housing development.

§ 64-4 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 senior housing which are financed or assisted pursuant to the Act. It is further determined that Sugar Mills Apartments is of this class.

§ 64-5 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) The housing development identified as Sugar Mills Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction. 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 chapter, the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this chapter in consideration of the sponsors offer, subject to receipt of a mortgage loan from the Authority, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

(B) The annual service charge shall be the greater of the following:

(1) Fourteen percent of the difference between the annual shelter rents actually collected and utilities; or

(2) A minimum payment determined as follows. In the first year of operation, the minimum payment shall be \$35,900, prorated on a daily basis from the date the final occupancy permit is issued through the next August 31. Each year thereafter, this payment shall be adjusted annually by the lesser of: 5%; or the increase or decrease in the general price level for the preceding year, as defined in the Michigan Constitution, § 33. The general price level is also the same percentage used to calculate the taxable property value by the City Tax Assessor.

§ 64-6 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

(A) Notwithstanding § 64-5, 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 to moderate 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.

(B) The term *LOW TO MODERATE PERSONS* as used herein means, with respect to any housing development that is tax-exempt, senior persons eligible to move into that development.

§ 64-7 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 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 chapter.

§ 64-8 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before August 31 each year.

§ 64-9 DURATION.

This chapter shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the Authority has any interest in the property; provided, that construction of the housing development commences within 1 year from the effective date of this chapter.

§ 64-10 SEVERABILITY.

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 the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this chapter is declared null and void.

Division 2.

§ 64-11 IN GENERAL.

This division shall be known and cited as the "City of Charlotte Tax Exemption Ordinance for the Edmond Senior Apartments on South Washington Street."

 **§ 64-12 PREAMBLE.**

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate 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) Public Act 346 of 1966, being M.C.L.A. §§ 125.1401 *et seq.*, as amended. 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 is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provision of the chapter, for tax exemption and the service charge in lieu of taxes during the period contemplated in this chapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that the Sponsor, as defined in this division, is a limited dividend housing association limited partnership and has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program and a Federally Aided Mortgage (as defined in the Act) to construct, own and operate the Housing Development Project to be known as The Edmond Senior Apartments located in the City to serve Low Income Persons, as defined herein, and 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 ad valorem property taxes.

 **§ 64-13 DEFINITIONS.**

ACT. The State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, being M.C.L.A. §§ 125.1401 *et seq.*, as amended.

ANNUAL SHELTER RENT. The total collections during an agreed annual period from or paid on behalf of all Low Income Persons, as defined herein of the Housing Development Project representing rent or occupancy charges, exclusive of charges for Utilities, as defined herein.

AUTHORITY. The Michigan State Housing Development Authority.

CITY. The City of Charlotte, a Michigan municipal corporation.

COMMENCEMENT OF CONSTRUCTION. The commencement of the Housing Development, as defined herein.

HOUSING DEVELOPMENT PROJECT. The project being constructed at the Housing Development Location, consisting of a building to include qualified low income residential apartment units including approximately fifty (50) units reserved for Low Income Persons and such recreational, industrial, communal and educational facilities as the Sponsor and/or Authority determine will improve the quality of the Housing Development Project as it relates to housing for **Elderly Senior** Persons.

HOUSING DEVELOPMENT LOCATION. Lots 7, 8, 11, 12, 15, 16 and the West 30 feet 6 inches of Lot 17, the dividing line being the center of a block wall, and the vacated alley South of Lot 15 and the West ½ of the vacated alley adjacent to Lots 7, 8, 11, 12 & 15 Cummings Subdivision to the original Plat, City of Charlotte, Michigan and Lots 9, 10, 13, 14 the East 11 feet 1/5 inches of Lot 17, the dividing line being the center of a block wall, Lots 18, 19, 20 and the vacated alley South of Lot 14 and the East ½ of the vacated alley adjacent to Lots 9, 10, 13 & 14 of the Cummings Subdivision to the original plat, City of Charlotte, Michigan.

LOW INCOME PERSONS. Senior Persons eligible to move into the Housing Development Project pursuant to the Act and the Authority.

MORTGAGE LOAN. A loan to be made by the Authority to the sponsor for the construction and/or permanent financing of the housing development.

SENIOR PERSONS. Single persons who are 55 years of age or older or a household in which at least one member is 55 years of age or older **and all other members are 50 years of age or older.**

SPONSOR. The Edmond Senior Apartments limited Dividend Housing Association Limited Partnership, 333 North Pennsylvania Street, Suite 100, Indianapolis, Indiana, who shall act as the owner of the Housing Development Project.

UTILITIES. Fuel, water, heat sanitary sewer service and/or electrical service furnished to the occupants which are paid by the Housing Development Project.

§ 64-14 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 senior housing which are financed or assisted pursuant to the Act. It is further determined that The Edmond Senior Apartments is of this class.

§ 64-15 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) Subject to the provisions of this division, the Housing Development Project and the Housing Development Location shall be exempt from all property taxes for the period specified in Section 64-19. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development Project in reliance upon the enactment and continuing effect of this Agreement and qualification of the Housing Development Project for the exemption from all property taxes and a payment in lieu of taxes as established in this division. Therefore, in consideration of the Sponsor's offer to construct, own and operate the Housing Development Project, the City has agreed to accept payment of an annual Service Charge, as defined below, for public services in lieu of all ad valorem property taxes as provided for in Section 64-15 (C) provided the Sponsor furnishes proof, on an annual basis upon request by the City, that the number of qualified low income units in the Housing Development Project have not increased, decreased, or been altered in any material form unless the City has otherwise amended the provisions of this division.

(B) In addition to the annual certified verification requirement in Section 64-15 (A), the tax exemption shall commence upon the acquisition of the Housing Development Location by the Sponsor. The Sponsor of the Housing Development Project eligible for exemption, or the City as appropriate and necessary, shall file with the local assessing officer a certified notification of the exemption, which shall be in an affidavit form by either the Authority, the city and/or the Sponsor as appropriate. The completed affidavit form first shall be submitted to the Authority for certification by the Authority that the Housing Development Project is eligible for the exemption. The Sponsor and/or the City shall file or cause to be filed the certified notification of the exemption with the local assessing officer as soon as practically possible.

(C) The annual service charge shall be equal to ten percent (10%) of the difference between the Annual Shelter Rent actually collected and Utilities (the "Service Charge.")

§ 64-16 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding § 64-15, the service charge to be paid each year in lieu of taxes for any part of the housing development which is tax exempt and occupied by other than Low Income Persons shall be equal to the full amount of the taxes which would be due and payable on that portion of the Housing Development Project if the project were not tax exempt.

§ 64-17 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of § 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 division.

§ 64-18 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under the chapter shall be payable in the same manner as general property taxes are payable to the city except that the annual payment will be paid on or before June 30 of the year following the calendar year upon which such Service Charge is calculated and shall be distributed to the several units levying ad valorem property taxes in the same proportion as for said taxes. Failure to pay the service charge on or before June 30 of each year shall result in the service charge being subject to one percent (1%) interest per

month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December 31 of any year, the amount unpaid shall be a lien upon the real property constituting the Housing Development Project upon the City Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the Sponsor with the Eaton County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

§ 64-19 DURATION.

This division shall remain in effect and shall not terminate so long as the Housing Development Project continues to be used for Low Income Persons as provided in this division, but not to exceed fifty (50) years; provided, however, if construction of the Housing Development Project does not commence within one (1) year of the Authority's LIHTC April 1, 2017 funding round award date, which is anticipated to be on or about July 1, 2017, or if the Sponsor materially changes the scope or purpose of the Housing Development Project with the consent of the City, by and through its representatives, and in accordance with the requirements of law, this division shall automatically expire, terminate and be of no further effect.

§ 64-20 SEVERABILITY.

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 the chapter as a whole or any section or provision of this chapter other than the section or provision so declared to be unconstitutional or invalid. It is hereby amplified that it is the city's intent to accept a payment in lieu of taxes only for the purpose of a senior development. If the property is ever used for another purpose, or if this chapter is unacceptable to any state agencies, this division is declared null and void.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective 20 days after adoption.

Second, _____ () Yeas. () Nays.

Dated:

Timothy Lewis, Mayor

Ginger Terpstra, Clerk