

**CITY OF ALMA
ORDINANCE NUMBER 813**

AN ORDINANCE TO AMEND CHAPTER 50 OF THE ORDINANCES OF THE CITY OF ALMA BY THE ADDITION OF DIVISION 6, TO AUTHORIZE THE PAYMENT OF AN ANNUAL SERVICE CHARGE IN LIEU OF TAXES FOR SCOTTISH PINES APARTMENTS, OWNED BY, DESHANO DEVELOPMENT CORPORATION, 325 COMMERCE COURT, GLADWIN MI 48624 SERVING LOW INCOME OR MODERATE INCOME PERSONS IN ACCORDANCE WITH THE STATE HOUSING DEVELOPMENT AUTHORITY, ACT 346 OF THE PUBLIC ACTS OF 1966, AS AMENDED, AND MATTERS RELATED THERETO

The City of Alma Ordains:

Section 1. Chapter 50, Article II of the Code of the City of Alma be, and is hereby amended by adding Division 6, to read as follows:

**DIVISION 6. LOW AND MODERATE INCOME APARTMENTS:
SCOTTISH PINES APARTMENTS**

Sec. 50-160. Title.

This Article is known and cited as the “Scottish Pines Apartments Tax Exemption Ordinance”.

Sec. 50-161. 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 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 Act of 1966 (1966 PA 346, as amended, MCL 125.1401, et seq. The City of Alma 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 of Alma will be benefited 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 provisions of this Article for tax exemption and the service charge in lieu of taxes during the period contemplated in this Article are essential to the determination of economic feasibility of this Housing Project that was constructed or rehabilitated with financing extending in reliance on such tax exemption.

The City of Alma acknowledges that the Sponsor, DeShano Development Corporation, has offered, **subject to receipt of an allocation under the LIHTC Program** by the Michigan State Housing Development Authority, to rehabilitate, own and operate a Housing Project identified as Scottish Pines Apartments on certain property located at 1575 Pine Avenue in the City of Alma to serve low income persons and families, and that the Sponsor has offered to pay the City of Alma on account of this Housing Project an annual service charge for public services in lieu of all property taxes.

Sec. 50-162. Definitions.

All terms are defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966, of the State of Michigan, as amended, except as follows:

Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

Annual shelter rent means the total collections during an agreed annual period from all occupants of a Housing Project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Class means low or moderate income persons.

LIHTC Program means the Low Income Housing Tax Credit Program administrated by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Persons of low income means persons and families eligible to move into a Housing Project.

Mortgage Loan means loan that is Federally-Aided 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 a Housing Project and secured by a mortgage loan.

Owner means a person(s) or entities, DeShano Development Corporation, which have applied to the Authority for an allocation under the low-income housing tax credit program (LIHTC) to finance a Housing Project.

Sponsor means DeShano Development Corporation and any entity that receives or assumes a Mortgage Loan.

Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants which are paid by the Housing Project .

Sec. 50-163. Class of Housing Developments.

It is determined that the class of Housing Projects to which the tax exemption and service charge in lieu of such taxes applies are Housing Projects for persons and families of low income, which are financed or assisted by the Authority or which are Federal aided, as defined in the Act with a Mortgage Loan. It is further determined that Scottish Pines Apartments is of this class.

Sec. 50-164. Establishment of annual service charge.

The Housing Project identified as Scottish Pines Apartments, for persons of low income and the property on which it is located shall be exempt from all property taxes from and after the commencement of rehabilitation. The City of Alma, acknowledging that the Owner and the Authority, in the case of an Owner assuming a mortgage loan from 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 all property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Owner's offer to rehabilitate and operate the Housing Project, **subject to receipt of an allocation under the LIHTC program**, the City of Alma agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

Effective upon the adoption of this Ordinance and subject to the receipt by the City of the "Notification of Exemption", the annual service charge shall be equal to the greater of (1) ten (10%) percent of the annual shelter rents actually collected by the Housing Project during each operating year; or (2) \$14,784.00 for the calendar year 2020, adjusted upward annually by recommendation of City Staff.

Sec. 50-165. Limitation on the payment of annual service charge.

Notwithstanding section 50-164, the service charge to be paid each year in lieu of taxes for the part of the Housing Project which is tax exempt and which is occupied by other than low income persons or families is equal to the full amount of the taxes which would be paid on that portion of the Housing Project if the Housing Development were not tax exempt.

The term "low-income person or families" as used has the same meaning as found in section 15(a)(7) of the ACT.

Sec. 50-166. Contractual effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City of Alma and the Owner 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.

Sec. 50-167. 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 Alma except that the annual payment must be paid on or before April 1st of each year.

Sec. 50-168. Duration.

Subject to the periodic review set forth below, the tax exempt status of the Housing Project approved by this Ordinance will remain in effect for not more than **20 years** from the date the certificates of occupancy for the Housing Project; provided, the completion of such Housing Project occurs within one year from the adoption of this Ordinance approving the Housing Project for tax exempt status. "Completion" means the issuance of an occupancy permit for the entire structure issued by the appropriate building and/or zoning official.

Sec. 50-169. Annual Audit.

The Owner, or its successor, shall file a copy of any and all 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 Project, Annual Shelter Rents received from the Housing Project, and the cost for utilities during the audit period.

Section 2. Severability.

The various sections and provisions of this Ordinance are 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 will 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 3. Ordinances Repealed.

All ordinances and/or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 4. Effective Date.

This ordinance shall take effect and be in force 15 days from and after its enactment as provided by the City Charter.

Passed and approved by the City Commission of the City of Alma, Michigan, in regular session, held August 13, 2019.

We, the undersigned, Mayor and Clerk of the City of Alma, Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 813 of the City of Alma, Michigan, was introduced at a regular meeting of the City Commission, held on July 23, 2019, and was thereafter passed at a regular meeting on August 13, 2019, at least two weeks elapsing between the introduction and the enactment.

Dated at Alma, Michigan, this 13th day of August, 2019.

Gregory S. Mapes, Mayor

Sheila Letourneau, City Clerk

I, the undersigned, City Clerk, DO HEREBY CERTIFY that the foregoing and above Ordinance No. 813 of the City of Alma, Michigan, is a true and compared copy of the original ordinance, now on file in my office, and of the whole thereof; that the same was published within 10 days from its adoption in the Morning Sun, a newspaper printed, published and circulated in the City of Alma, Michigan, and that the Affidavit of Publication thereof is now on file in my office and is a part of the original records pertaining to the adoption of the aforesaid ordinance.

I FURTHER CERTIFY that in accordance with the provisions of Section 5.3 and 5.5 of Chapter V of the Charter of Alma, Michigan, the foregoing ordinance shall take effect 15 days after its enactment as aforesaid.

Dated at Alma, Michigan, August 28, 2019.

Sheila Letourneau, City Clerk