

**ORDINANCE #333  
TAX EXEMPTION**

Adopted: 04/09/13  
Effective: 4/18/13

**AN ORDINANCE TO AMEND THE CURRENT ORDINANCES OF THE CHARTER TOWNSHIP OF BANGOR BY PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A PROPOSED PROJECT FOR ELDERLY PERSONS OR PERSONS OF LOW OR MODERATE INCOME TO BE FINANCED OR ASSISTED PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT ACT OF 1966 AS AMENDED.**

**The Charter Township of Bangor, Bay County, Michigan, hereby ordains:**

**SECTION 1.** This Section shall be known and cited as the “Bangor Township Tax Exemption Ordinance.”

**SECTION 2.** 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 who are Elderly Persons or persons of low or moderate income and to encourage the development and rehabilitation 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, MCL 125.1401, et seq.). The Township 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 Elderly Persons and persons of low or moderate income is a public necessity, and as the Township 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 provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the period contemplated in this Section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The Township acknowledges that, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, or a Mortgage Loan insured by the U.S. Department of Housing and Urban Development, either Country Meadows Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership, or its potential successor in title, Bangor Township Senior Housing Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership (either of which shall be hereafter referred to as the “Sponsor”), is seeking to rehabilitate and operate the housing development identified as Country Meadows on certain property located in the Township (See Exhibit A for legal description) to serve Elderly Persons or persons of low or moderate income, and that the Sponsor has offered to pay the Township on account of this housing development an annual service charge for public services in lieu of all taxes.

### **SECTION 3.**

1. *Authority* means the Michigan State Housing Development Authority.
2. *Act* means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.
3. *Annual Shelter Rent* means the total collections during an agreed annual period from all occupants of the housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.
4. *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 by the Housing and Community Development Act of 1974, so long as the Section 8 contract remains in effect and, in the event the Section 8 contract expires, the Annual Shelter Rents collected from the tenants.
5. *Housing Development* means a development which contains a significant element of housing for persons and families of low or moderate income and such elements of other housing, commercial, recreational, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to housing for persons of low income.
6. *Elderly Persons* means a single person who is 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.
7. *Low or Moderate Income* as used herein shall be the same meaning as found in Section 15(a) of the Act.
8. *Mortgage Loan* means a loan to be made by the Authority and/or insured by HUD to the Sponsor for the rehabilitation and/or permanent financing of the Housing Development.
9. *Sponsor* means the entity which has applied for low income housing tax credits or other financial assistance from the Authority for the housing development.
10. *Utilities* mean fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.
11. *HUD* means the U.S. Department of Housing and Urban Development acting through its Federal Housing Administration divisions.

**SECTION 4.** 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 housing for Elderly Persons or housing which is for persons and families of low or moderate

income and which is financed or assisted pursuant to the Act. It is further determined that Country Meadows is of this class.

**SECTION 5.** Country Meadows and the property on which it is constructed shall be exempt from all property taxes from and after the Effective Date of this Ordinance. The Township, acknowledging that the Sponsor and the Authority and/or HUD have 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 a Mortgage Loan from the Authority and/or loan insured by HUD, to rehabilitate, own and operate said 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 four percent (4%) of the difference between the Annual Shelter Rents collected, less Utilities.

**SECTION 6.** 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 Township and subject to the same interest and/or administrative fees for late payment. The taxing authority shall be under no obligation to submit a tax billing or statement to the Sponsor. The service charge in lieu of taxes shall be paid in advance, with the estimated payment due and payable by February 14 for that current calendar year. The adjusted final payment shall be paid or the request for refund shall be submitted on or before March 15 of the year following the year upon which the service charge is calculated. The Sponsor shall submit with the February 14 payment the calculations used to compute the estimated payment. The Sponsor shall submit with the March 15 payment (request) a statement from an independent auditor verifying that the amounts used to compute the adjusted final payment are correct as reported. All payments and documents shall be received by the Township on or before the due date.

**SECTION 7.** Those housing projects which are currently exempt from taxation and are already making payment in lieu of tax (PILOT) payments shall not be affected nor shall the terms of the tax exemption and PILOT payments for those housing projects be changed by reason of the passage of this Ordinance.

**SECTION 8.** This Section shall remain in effect and shall not terminate so long as the Mortgage Loan remains outstanding and unpaid or the Authority or HUD has any interest in the property.

**SECTION 9.** 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.** All ordinances or parts of ordinances in conflict with this Ordinance are repealed on the Effective Date of this Ordinance to the extent of such conflict, including, but not limited to Ordinances 234 and 243.

**SECTION 11.** Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the Township and the Sponsor, with the Authority and/or HUD as third party beneficiaries under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Section.

**SECTION 12.** Annual service charges payable pursuant to this Ordinance shall be a Lien on the Housing Development and, if delinquent, shall be collected and enforced in the same manner as general property taxes.

**SECTION 13.** The Effective Date of this Ordinance shall be the date of the publication following adoption of this Ordinance.

The above Ordinance was adopted at a regular meeting of the Township Board on the 9<sup>th</sup> day of April, 2013, and shall be published in the *Bay City Democrat and Legal News* on or before the 18<sup>th</sup> day of April, 2013.

## **EXHIBIT A**

Township of Bangor, County of Bay, State of Michigan.

Lot 6, Bay City Mall Subdivision, being a part of the West 1/2 of the Southwest 1/4 of Section 9, Township 14 North, Range 5 East, Bangor Township, Bay County, Michigan, according to the Plat thereof recorded in Liber 10, Pages 45 through 52, Bay County Records.

Together with the Non-Exclusive Easements as created by the Operation and Easement Agreement dated December 11, 1989 and recorded March 7, 1990 in Liber 1134, Page 445, Bay County Records, as amended by First Amendment to Operation Agreement dated April 21, 1992 and recorded June 2, 1992 in Liber 1217, Page 741, and re-recorded June 9, 1992 in Liber 1218, Page 880, Bay County Records, including, but not limited to, the right to use the Access Roads and Ring Road pursuant to Section 2.1 of said Agreement.

### Parcel B

A parcel of land in the West 1/2 of the Southwest 1/4 of Section 9, Town 14 North, Range 5 East, described as follows: Commencing at a point on the West line of said Section 2,619.62 feet, North 00°-00'-00" West, from the Southwest corner of said Section 9; thence North 00°-00'-00" West, on said West line, 30.01 feet to the West 1/4 line of said Section 9; thence North 88°-38'-29" East, on the East and West 1/4 line of said Section, 1,331.94 feet to its intersection with the West 1/8 line of said Section 9; thence South 00°-15'-05" West, on said West 1/8 line 400.11 feet; thence South 88°-38'-29" West, parallel with and 400.00 feet measured at right angles South of said East and West 1/4 line 400.11 feet; thence North 00°-15'-05" East, parallel with and 400.00 feet measured at right angles West of said West 1/8 line 370.10 feet; thence South 88°-38'-29" West, parallel with and 30.00 feet measured at right angles South of said East and West 1/4 line 931.69 feet to the point of beginning.