

**CHARTER TOWNSHIP OF SOUTH HAVEN
ORDINANCE NO. 68**

Tax Exemption Ordinance

Adopted: 6/13/01

Effective: 7/01/01

An Ordinance to provide for a service charge in lieu of taxes for a proposed multiple family dwelling project for persons of low income to be financed, or assisted, pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

**THE CHARTER TOWNSHIP OF SOUTH HAVEN
VAN BUREN COUNTY
ORDAINS:**

SECTION 1

Title

This Ordinance shall be known and cited as the "Charter Township of South Haven 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 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, MCL 125.1401, *et. seq.*, MSA 116.114(1), *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 persons of low income is a public necessity, and as the Township 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 Ordinance for tax exemption and the service charge in lieu of taxes, during the period contemplated in this Ordinance, 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 Excel Realty Deal 39 Limited Dividend Housing Association Limited Partnership (Peter Jobson) (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 Coastal Crossing Apartments on certain property located at Cecelia Drive in the Township to serve persons of low 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

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 a development which 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.

f) Reserved for definition of class (i.e. elderly, family, handicapped, etc.,) to which this Ordinance shall apply.

g) Mortgage Loan means loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of the Housing Development.

h) Utilities mean fuel, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development.

i) Sponsor means person(s) or entities which have applied to the Authority for a Mortgage Loan to finance a Housing Development.

SECTION 4

Class of Housing Developments

It is determined that the class of Housing Developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be multi-family apartments, which are financed or assisted pursuant to the Act. It is further determined that Coastal Crossing Apartments are of this class.

SECTION 5
Establishment of Annual Service Charge

The Housing Development identified as Coastal Crossing, and the property on which it shall be constructed, shall be exempt from all property taxes from and after the commencement of construction. The Township, 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 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 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. The annual service charge shall be equal to 4% of the difference between the Annual Shelter Rents actually collected and Utilities.

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 Township 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 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 Township, except that the annual payment shall be paid on or before February 28th of each year.

SECTION 9

Duration

This Ordinance 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 one year 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 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 11

Effective Date

This Ordinance shall become effective on 7/1/01, or as otherwise provided in the Charter. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.



Helen Decker, Clerk
South Haven Charter Township

Ordinance Received	05/09/01
Submittal Notice	05/20/01
Ordinance Adopted	06/13/01
Adoption Notice	06/25/01
Ordinance Effective	07/01/01