

Moved by Mayor Pro Tem Boensch, seconded by Council Member Williams to adopt an ordinance introduced November 21, 2022, entitled and reading as follows, be taken up and enacted:

O-252

AN ORDINANCE TO ADD "LOW INCOME HOUSING TAX EXEMPTION FOR BROOKWOOD 60 LIMITED DIVIDEND HOUSING ASSOCIATION, L.L.C" TO "TABLE VIII: LOW INCOME HOUSING TAX EXEMPTION," BY AMENDING "ORDINANCE 157," OF THE "TABLE OF SPECIAL ORDINANCES," OF THE CITY OF SAGINAW CODE OF ORDINANCES, 204.

The City of Saginaw Ordains:

Section 1. An ordinance to add "Low Income Housing Tax Exemption for Brookwood 60 Limited Dividend Housing Association, L.L.C" to "Table VIII: Low Income Housing Tax Exemption," by amending "Ordinance 157," of the "Table of Special Ordinances," of the City of Saginaw Code of Ordinances, O-204, is hereby amended to read as follows:

LOW INCOME HOUSING TAX EXEMPTION

This Ordinance shall provide for a service charge in lieu of taxes for a 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.

(A) 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 to be paid in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL Section 125.1401 et seq.). 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 for persons of low income is a public necessity, and as the City 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 or renovated and financed in reliance on such tax exemption.

The City acknowledges that Brookwood 60 Limited Dividend Housing Association, L.L.C. (Brookwood 60) has received Low Income Housing Tax Credits from the Michigan State Housing Development Authority on certain real property it owns

located in the City of Saginaw, County of Saginaw, State of Michigan described in Exhibit A which is kept on file with the City Clerk, the keeper of records for the City of Saginaw, and is incorporated herein by reference to serve persons of low income; that each Housing Development has been constructed on part of Exhibit A owned by a Sponsor that was formed by Brookwood 60 which is in the form of a separate limited dividend housing association formed in accordance with the laws of the State of Michigan for the sole purpose of owning and operating that Housing Development; that the Sponsor shall pay to the City on account of such Housing Development an annual service charge for public services in lieu of all taxes; and that the provisions of this Ordinance are intended to establish such annual service charge in lieu of taxes for each Housing Development constructed and operated on any portion of Exhibit A that complies with and satisfies the provisions of this Ordinance.

(B) *Definitions.*

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

(2) Annual Shelter Rents means the total collections during an agreed annual period from or paid on behalf of all occupants of a Housing Development representing rent or occupancy charges, exclusive of charges for gas, electricity, water and sanitary sewer service, or other utilities furnished to the occupants.

(3) Authority means the Michigan State Housing Development Authority.

(4) Code means the U.S. Internal Revenue Code of 1986, as the same may be amended from time to time (or any corresponding provisions of any successive law).

(5) 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.

(6) 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.

(7) Low Income Housing Tax Credits means tax credits allocated by the Authority to a Housing Development pursuant to Section 42 of the code.

(8) Mortgage Loan means a construction loan to be made by the Authority to the Sponsor for the acquisition and construction of the Housing Development.

(9) Persons of Low Income means low income persons or families as defined in Section 15(a)(7) of the Act.

(10) Sponsor means Brookwood 60 Limited Dividend Housing Association, L.L.C., or person(s) or entities, which have applied to the Authority for a Mortgage Loan to finance a Housing Development, its successors or assigns.

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

(C) *Class of Housing Developments.*

It is hereby determined that the class of Housing Development to and for which the tax exemption shall apply and for which a service charge shall be paid in lieu of

such real property taxes pursuant to the Ordinance shall be single family units, which are financed or assisted pursuant to the Act and are constructed upon the real property described on Exhibit A. It is further determined that a Housing Development for which a site plan has been submitted by the Sponsor and approved by the City is of this class.

(D) *Establishment of Annual Service Charge.*

The Housing Development and the real property forming a part of Exhibit A on which it has been constructed shall be exempt from all property taxes from and after the date hereof. 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 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 an allocation of Low Income Housing Tax Credits from the Authority to construct, own, and operate the Housing Development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes for the Housing Development. The annual service charge shall be equal to ten (10%) percent of the Annual Shelter Rents for a period not to exceed fifty (50) years.

(E) *Limitation on the Payment of Annual Service Charge.*

Notwithstanding Section D, 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" as used herein shall be the same meaning as found in 15(a)(7) of the Act.

(F) *Contractual Effect of Ordinance.*

Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as a 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.

(G) *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 except that the annual payment shall be paid on or before the first (1st) day of August of each year. Prior to the first day of June each year, the Sponsor or Owner shall submit to the City a Copy of its certified audit as submitted to the Authority in order for the City to verify the payment to be made hereunder.

(H) *Duration.*

This Ordinance shall remain in effect as to each Housing Development and shall not terminate so long as long as the property is subject to a Mortgage Loan, tax credit regulations under Section 42 of the Code, or the Authority has any interest in the property not to exceed fifty (50) years after the date from this ordinance.

(I) *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.

This ordinance shall become effective December 22, 2022.

Enacted: December 12, 2022.

Yeas: Eight
Nays: None
Absent: None

Brenda F. Moore
Mayor

Janet Santos, MiPMC/MMC
City Clerk

ORDINANCE DECLARED ADOPTED

I, Janet M. Santos, City Clerk of the City of Saginaw, Michigan, do hereby certify that the foregoing is a true and complete copy of the ordinance adopted by the City of Saginaw, Saginaw County, State of Michigan, at a public meeting held on December 12, 2022; the original thereof is on file in the records of the Office of the City Clerk; the meeting was conducted and public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, and minutes of this meeting were kept and will be made available as required.

Janet Santos, MiPMC/MMC
City Clerk