

SECTION 7

CHAPTER 9, COMMUNITY DEVELOPMENT CODE OF ORDINANCES

Chapter 9

COMMUNITY DEVELOPMENT*

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ARTICLE I. IN GENERAL

Secs. 9-1—9-15. Reserved.

ARTICLE II. HOUSING COMMISSION†

Sec. 9-16. Created.

Pursuant to Public Act 18 of the Extra Session of 1933, as amended by Public Act 80 of 1935, Public Act 265 of 1937, and Public Act 5 of the Extra Session of 1938, State of Michigan (MCL 125.651 et seq., MSA 5.3011 et seq.), a commission is hereby created in and for the city, to be known as the "Escanaba Housing Commission."
(Code 1969, § 32.10)

Sec. 9-17. Appointments and terms of members.

The mayor is hereby directed to appoint the members of the housing commission, with the consent and approval of the other members of the city council. The housing commission shall consist of five (5) members, each of whose term of office shall be five (5) years. Members shall serve without compensation and may be removed from office by the appointing authority. Any vacancy in the office shall be filled by the appointing authority for the remainder of the unexpired term.

(Code 1969, § 32.11)

State law reference—Similar provisions, MCL 125.654, MSA 5.3014.

Sec. 9-18. Responsibilities and duties.

(a) The housing commission shall have all the powers and duties vested or permitted to be vested in housing commissions by said Public Act 18 of the Extra Session of 1933 (MCL

*Cross references—Administration, Ch. 2; planning, Ch. 21.

State law references—Housing and slum clearance projects, MCL 125.651 et seq., MSA 5.3011 et seq.; housing corporation law, MCL 125.601 et seq., MSA 5.3057(1) et seq.; urban redevelopment corporations, MCL 125.901 et seq., MSA 5.3058(1) et seq.; rehabilitation of blighted areas, MCL 125.71 et seq., MSA 5.3501 et seq.

†Cross references—Administration, Ch. 2; boards, commissions and committees generally, § 2-51 et seq.

State law reference—Authority to create a housing commission, MCL 125.653, MSA 5.3013.

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125.651 et seq., MSA 5.3011 et seq.), as heretofore or hereafter amended, and any laws heretofore or hereafter enacted which are supplemental thereto, it being the intention of this article to vest in the housing commission all powers and duties permitted by law.

(b) The housing commission shall select and appoint such employees as it shall deem necessary for the proper exercise of its powers, functions and duties, and shall pay them for such compensation as it shall, with the approval of the mayor and city council, fix and determine.

(Code 1969, § 32.12)

Secs. 9-19—9-50. Reserved.

ARTICLE III. DOWNTOWN DEVELOPMENT

DIVISION 1. GENERALLY

Secs. 9-51—9-60. Reserved.

DIVISION 2. DOWNTOWN DEVELOPMENT AUTHORITY*

Sec. 9-61. Title.

This division shall be known and may be cited as the "Downtown Development Authority Ordinance."

(Ord. No. 792, § 1, 3-17-88)

Sec. 9-62. Definitions.

The terms used in this division shall have the same meanings as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this division:

Act 197 means Act No. 197 of the Public Acts of Michigan of 1975, as now in effect or hereafter amended.

Authority means the Escanaba Downtown Development Authority created by this division.

Board or board of trustees means the board of trustees of the authority, the governing body of the authority.

Chief executive officer means the mayor of the City of Escanaba.

City means the City of Escanaba, Michigan.

Council or city council means the city council of the city.

***Editor's note**—Ordinance No. 792, enacted March 17, 1988, did not specifically amend this Code; hence, codification of §§ 1—10 of the ordinance as a new Art. III, Div. 2, §§ 9-61—9-70, was at the discretion of the editor.

Downtown development tax means the tax authorized by this division pursuant to Act 197 to be imposed by the authority in the downtown area.

Downtown distract means the downtown district designated by this division as now existing or hereafter amended.

(Ord. No. 792, § 2, 3-17-88)

Sec. 9-63. Determination of necessity.

The city council hereby determines that it is necessary for the best interests of the city to halt property value deterioration and increase property tax valuation where possible in the downtown business district of the city, to eliminate the causes of that deterioration, and to promote economic growth by establishing a downtown development authority pursuant to Act 197.

(Ord. No. 792, § 3, 3-17-88)

Sec. 9-64. Creation of authority; general powers.

There is hereby created, pursuant to Act 197, a downtown development authority for the City of Escanaba, Michigan. The authority shall be a public body corporate and shall be known and exercise its powers under the title of "Escanaba Downtown Development Authority." The Authority may adopt a seal, may sue and be sued in any court of this state, and shall possess all of the powers necessary to carry out the purpose of its corporation as provided by this division and Act 197. The enumeration of a power in this division or in Act 197 shall not be construed as a limitation upon the general powers of the authority.

(Ord. No. 792, § 4, 3-17-88)

Sec. 9-65. Description of downtown district.

The downtown district in which the authority shall exercise its powers as provided by Act 197 shall consist of the following described territory in the City of Escanaba, Michigan, subject to such changes as may hereinafter be made pursuant to this division and Act 197.

Description of Boundaries

That part of Section 29 and Section 30 of Township 39 North, Range 22 West lying in the City of Escanaba, Delta County, Michigan, described as follows:

Beginning at the intersection of the south right-of-way line of 1st Avenue South and the east right-of-way line of South Lincoln Road (M-35); thence easterly along said south right-of-way line of 1st Avenue South extended one hundred sixty (160) feet; thence north three hundred twenty (320) feet to a point one hundred sixty (160) feet south of the south right-of-way line of Ludington Street; thence east and parallel with said Ludington Street right-of-way line to the west right-of-way line of South 19th Street; thence south two hundred forty (240) feet to the south right-of-way line of 1st Avenue South; thence easterly along said south right-of-way line of 1st Avenue South extended to the west right-of-way line of South 7th Street; thence south one hundred

eighty (180) feet; thence east one hundred eighty (180) feet; thence north one hundred eighty (180) feet to the south right-of-way line of 1st Avenue South; thence east along said right-of-way to the east right-of-way of South 2nd Street extended; thence north along the east right-of-way line of South 2nd Street extended three hundred eighty (380) feet; thence east one hundred thirty (130) feet; thence south one hundred sixty (160) feet to the south alley right-of-way line of Block 2 of Original Plat; thence east four hundred seventy (470) feet; thence north to a point being one-thousand two hundred (1,200) feet north of the north right-of-way of 3rd Avenue North extended; thence west along a line being one-thousand two hundred (1,200) feet north and parallel to said north right-of-way line of 3rd Avenue North to a point on the north and south centerline of Section 30, said point being three hundred twenty (320) feet more or less south of the north quarter corner of said Section 30; thence south along the north and south centerline of said Section 30 a distance of four hundred sixty-eight (468) feet more or less; thence southwesterly along a curve to the right with one-thousand four hundred thirty-two and $\frac{69}{100}$ (1,432.69) foot curve radius a chord distance of five hundred ninety (590) feet more or less; thence south one hundred seventy (170) feet more or less to the northwest corner of Lot 9, Block 1 of Cleary's Subdivision; thence easterly seven hundred ninety-seven and $\frac{95}{100}$ (797.95) feet; thence southeasterly two hundred seventy-five (275) feet more or less; thence north thirteen (13) feet more or less; thence southeasterly ninety (90) feet more or less; thence south one hundred twenty-eight (128) feet more or less to a point on the south right-of-way line of 3rd Avenue North; thence east along the south right-of-way line of 3rd Avenue North one-thousand four hundred thirteen (1,413) feet more or less to the east right-of-way line of North 10th Street; thence south eight hundred thirty (830) feet along the east right-of-way line of North 10th Street to the north right-of-way line of 1st Avenue North; thence west along the north right-of-way line of 1st Avenue North to the east right-of-way line of North Lincoln Road (US 2-41 & M-35); thence south along said east right-of-way line extended to the point of beginning.

Also

That part of Section 28, Section 29, and Section 32 of Township 39 North, Range 22 West lying in the City of Escanaba, Delta County, Michigan, described as follows:

All those lands lying between the waters of Little Bay de Noc and lying easterly of a line described as beginning at the intersection of the south right-of-way line of 7th Avenue South and the southeasterly right-of-way line of Lake Shore Drive; thence northeasterly along said Lake Shore Drive right-of-way line to a point intersecting the east right-of-way line of South 1st Street extended south; thence north along said east right-of-way line of South 1st Street extended to the shore line of Little Bay de Noc.

(Ord. No. 792, § 5, 3-17-88)

Sec. 9-66. Board of trustees.

(a) *Composition; appointments; qualifications; terms; vacancies; compensation; chair person.* The City of Escanaba Downtown Development Authority shall be under the supervision and control of a board consisting of the mayor, city engineer, and city manager, and ten (10)

members appointed by the mayor, subject to approval by the city council. At least seven (7) of the members shall be persons having an interest in property located in the downtown district. At least one (1) of the members shall be a resident of the downtown district, if the downtown district has one hundred (100) or more persons residing within it. Of the members initially appointed, two (2) shall be appointed for one (1) year, two (2) for two (2) years, three (3) for three (3) years, and three (3) for four (4) years. A member shall hold office until the member's successor is appointed. Thereafter, a member shall serve for a term of four (4) years. The initial term of office for the first board shall begin May 1, 1988. An appointment to fill a vacancy shall be made by the mayor for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(b) *Oath of office.* Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(c) *Rules of procedure; meetings.* The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the city council. Special meetings may be held when called in the manner provided in the rules of the board and in accordance with applicable state law. Meetings of the board shall be open to the public in compliance with Act No. 267 of the Public Acts of 1976.

(d) *Removal of members.* Pursuant to notice and an opportunity to be heard, a member of the board may be removed for cause by the city council. Removal of a member is subject to review by the circuit court.

(e) *Financial records.* All expense items of the authority shall be publicized monthly, and the financial records shall always be open to the public.

(Ord. No. 792, § 6, 3-17-88; Ord. No. 965, 4-20-00)

Sec. 9-67. Powers.

Except as specifically otherwise provided in this division, the authority shall have all powers provided by law, subject to the limitations imposed by law and herein.

(Ord. No. 792, § 7, 3-17-88)

Sec. 9-68. Fiscal year; adoption of budget.

(a) The fiscal year of the authority shall begin on July 1 of each year and end on June 30 of the following year, or such other fiscal year as may hereafter be adopted by the city.

(b) The board shall annually prepare a budget and shall submit it to the council on the same date that the proposed budget for the city is required by the city Charter to be submitted to the council. The board shall not finally adopt a budget for any fiscal year until the budget has been approved by the city council. The board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(c) The authority shall submit financial reports to the council at the same time and on the same basis as departments of the city are required to submit reports. The authority shall be audited annually by the same independent auditors auditing the city, and copies of the audit report shall be filed with the council.
(Ord. No. 792, § 8, 3-17-88)

Sec. 9-69. Downtown development tax.

(a) The authority is hereby authorized by the city to impose an ad valorem tax on all taxable property in the downtown district for the purpose provided by Act 197. The tax shall not exceed two (2) mills on the value of taxable property in the downtown district as finally equalized.

(b) In order to impose the tax, the board shall include in its budget each year an estimate of the amount necessary to be raised from the downtown development tax. The amount of tax imposed shall not exceed the amount necessary to be raised from the downtown development tax. The amount of tax imposed shall not exceed the amount necessary as estimated in the budget and approved by the city council. The board shall certify to the proper tax assessing official of the city the amount so determined in the same manner and at the same time as general city taxes are certified for collection.

(c) The city shall collect the downtown development tax at the same time and in the same manner as other city taxes are collected. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for the purpose provided by Act 197. The city council may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which cost shall be paid annually by the board, pursuant to an appropriate item in its budget.
(Ord. No. 792, § 9, 3-17-88)

Cross references—Tax increment financing and development plan, § 6-81 et seq.; taxation, Ch. 26.

Sec. 9-70. Legal status.

The authority shall be deemed an instrumentality of the City of Escanaba.
(Ord. No. 792, § 10, 3-17-88)

Secs. 9-71—9-80. Reserved.

DIVISION 3. TAX INCREMENT FINANCING AND DEVELOPMENT PLAN*

Sec. 9-81. Definitions.

The terms used in this division shall have the following meanings unless the context clearly requires otherwise:

Act 197 means the Downtown Development Authority Act No. 197, Public Acts of Michigan of 1975, as amended.

Base year assessment roll means the base year assessment roll prepared by the city assessor in accordance with section 9-84 and Exhibit A of the tax increment plan.

***Editor's note**—Ordinance No. 805, enacted Dec. 15, 1988, did not specifically amend the Code; hence, codification of §, § 1-11 of such ordinance as a new Art. III, Div. 3, §§ 9-81—9-91, was at the discretion of the editor.

Cross references—Downtown development tax, § 6-69; taxation, Ch. 26.

Captured assessed value means the amount in any one year by which the current assessed value as finally equalized by the state board of equalization for all real and personal property in the Escanaba Development Area, exceeds the "initial assessed value" of the area.

Development area means the area herein referred to as Escanaba's Development Area.

Development plan means the tax increment financing and development plan for the Escanaba Development Area dated November, 1988, as amended and transmitted to the city council by the Escanaba Downtown Development Authority for public hearing, as modified by action of the Escanaba City Council and confirmed by this division, copies of which are on file in the office of the city clerk.

Downtown development authority means the Escanaba Downtown Development Authority as established in accordance with Act 197.

Initial assessed value means the most recently assessed value as finally equalized by the state board of equalization of all real and personal property within the boundaries of the development area at the time of adoption of this division.

Project fund means the downtown development authority project fund established pursuant to section 9-86.

Tax increment financing plan means the method of financing the activities outlined in the development plan for Escanaba's Development Area.

Tax increment revenue means the revenue generated as captured assessed value which is intended to be used to finance the activities outlined in section 9-88.

Taxing jurisdiction means each governmental unit levying an ad valorem property tax on all real and personal property in the development area, including taxes levied by the school boards of all school districts, the Delta County Board of Commissioners, Bay de Noc Community College, Pinecrest Medical Care Facility, and the City of Escanaba.
(Ord. No. 805, § 1, 12-15-88)

Sec. 9-82. Approval and adoption of plan.

The tax increment financing and development plan, as amended by the Escanaba City Council, is hereby approved and adopted. The duration of the plan shall be thirty (30) years from the date of adoption of the plan, except as it may be extended or reduced by subsequent amendment of the plan and this division. A copy of the plan and all amendments thereto shall be maintained on file in the city clerk's office.
(Ord. No. 805, § 2, 12-15-88)

Sec. 9-83. Boundaries of development area.

The boundaries of the development area as set forth in the development plan are hereby adopted, confirmed, and established for the duration of the development plan.
(Ord. No. 805, § 3, 12-15-88)

Sec. 9-84. Preparation of base year assessment roll.

(a) Within sixty (60) days of the effective date of this division, the city assessor shall prepare the initial base year assessment roll. The initial base year assessment roll shall list each taxing jurisdiction in which the development area is located, the initial assessed value of the development area on the effective date of this division, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the development area.

(b) The assessor shall transmit copies of the initial base year assessment roll to the city treasurer, county treasurer, downtown development authority, and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this division and the tax increment financing plan contained in the development plan approved by this division.

(Ord. No. 805, § 4, 12-15-88)

Sec. 9-85. Preparation of annual base year assessment roll.

Each year within thirty (30) days following the final equalization of property in the development area, the assessor shall prepare an updated base year assessment roll. The updated base year assessment roll shall show the information required in the initial base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual base year assessment roll shall be transmitted by the assessor to the same persons as the initial base year assessment roll, together with a notice that it has been prepared in accordance with this division and the development plan.

(Ord. No. 805, § 5, 12-15-88)

Sec. 9-86. Establishment of project fund; approval of depository.

The treasurer of the downtown development authority shall establish a separate fund which shall be kept in a depository bank account or accounts in a bank approved by the city treasurer, to be designated Escanaba's Downtown Development Authority Project Fund. All monies received by the downtown development authority pursuant to the tax increment financing and development plan shall be deposited in the project fund. All monies in that fund and earnings thereon shall be used only in accordance with the tax increment financing and development plan and this division.

(Ord. No. 805, § 6, 12-15-88)

Sec. 9-87. Payment of tax increment to downtown development authority.

The city and county treasurers shall, as ad valorem taxes are collected on the property in the development area, pay that proportion of taxes, except for penalties and collection fees, that the captured assessed value bears to the initial assessed value to the treasurer of the downtown development authority for deposit in the project fund. The payments shall be made on the date or dates on which the city and county treasurers are required to remit taxes on each of the taxing jurisdictions.

(Ord. No. 805, § 7, 12-15-88)

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Sec. 9-88. Use of monies in project fund.

The money credited to the project fund and on hand therein from time to time shall be annually used in the manner described in Section D, "Use of Tax Increments" in the tax increment financing plan.

(Ord. No. 805, § 8, 12-15-88)

Sec. 9-89. Annual report.

Within ninety (90) days after the end of each fiscal year, the downtown development authority shall submit to the city council, with copies to each taxing jurisdiction and the Michigan Department of Education, a report on the status of the project fund. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the initial assessed value of the development area, the captured assessed value of the development area, the tax increments received and the amount of any surplus from prior years, and any additional information requested by the Escanaba City Council or as deemed necessary by the downtown development authority. The secretary of the downtown development authority shall cause a copy of the report to be published once in full in a newspaper of general circulation in the city.

(Ord. No. 805, § 9, 12-15-88)

Sec. 9-90. Refund of surplus tax increments.

Any surplus money in the project fund upon termination of the development plan shall be paid by the downtown development authority to the city or county treasurers, as the case may be, and rebated by them to the appropriate taxing jurisdiction. After the initial five-year period has lapsed, the downtown development authority will assess the progress that has been made. Particular attention will be given to the amount of tax increment revenue that was actually generated during this period in comparison to the amount projected in the original plan. This assessment will be done in conjunction with the taxing jurisdictions, and a five-year report will follow. The report will outline courses of action to be taken with all taxing jurisdictions based on the five-year assessment.

(Ord. No. 805, § 10, 12-15-88)

Sec. 9-91. Annual budget.

The downtown development authority shall prepare and submit, for the approval of the city council, a budget for the operation of the downtown development authority for the ensuing fiscal year. The budget shall be prepared in a manner and contain the information required of all city departments. Before the budget may be adopted by the downtown development authority, it shall be approved by the Escanaba City Council.

(Ord. No. 805, § 11, 12-15-88)