

CHARTER TOWNSHIP OF GARFIELD

SECOND AMENDED AND RESTATED ORDINANCE NO. 18

(PAYMENT IN LIEU OF TAXES)

An Ordinance to provide for a service charge in lieu of taxes for housing projects for low-income persons and families financed with a federally-aided or Authority-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq* (the "Act")).

THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:

Section 1. This Ordinance shall be known and cited as the "Charter Township of Garfield 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 low-income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The Charter Township of Garfield 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 amount of taxes that would otherwise be paid in the absence of such exemption. It is further acknowledged that such housing for persons and families 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 real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* property taxes during the periods contemplated in this Ordinance are essential to the determination of economic feasibility of housing projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

Section 3. Definitions.

- A. Authority means the Michigan State Housing Development Authority.
- B. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.
- C. Contract Rents means the total Contract Rents (as defined by the US Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the US Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.

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- D. Low Income Persons and Families means persons and families eligible to move into a housing project.
- E. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority, for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.
- F. Sponsor means any persons or entities that receive or assume a Mortgage Loan.
- G. Utilities means charges for gas, electric, water, sanitary sewer or other utilities furnished to the occupants that are paid by a housing project.

Section 4. Class of Housing Projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan.

Section 5. Property Tax Exemption.

Housing projects which qualify under Section 4 above may be granted the tax exemption provided in Subsection (1) of Section 15(a) of the Act (Section 125.1415(a)), provided the Sponsor of a housing project has complied with the Act, is current with all taxes and assessments on the subject property, and submits an audited financial statement for each previous calendar year to the Township Assessor by August 1st, annually.

Section 6. Establishment of Annual Service Charge.

Housing projects within the eligible Class set forth in Section 4 above and the property on which they are or will be located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The Township acknowledges that the Sponsor and the Authority, in the case of a Sponsor receiving an Authority-financed Mortgage Loan, or the Sponsor and the mortgage lender, in the case of a Sponsor receiving a Federally-aided Mortgage Loan, 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 projects for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, the Township will accept payment of an annual service charge for the public services in lieu of all *ad valorem* property taxes. The annual service charge shall be equal to a percentage of the Annual Shelter Rents actually collected by the housing project during each operating year, as established by a Resolution adopted by the Township Board.

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The service charge in lieu of property taxes shall be paid by the Sponsor as follows:

- (1) Housing projects approved for tax exemption under this Ordinance shall pay a service charge in the amount equal to ten (10) percent of Annual Shelter rent (defined in Section 3, above), except as provided in Subsections 2 or 3, below.
- (2) Housing projects approved for tax exemption under this Ordinance may request a lower service charge, which the Township may set as part of its Resolution of Approval provided for in Section 6. Projects previously approved under this Ordinance may also request a requalification of the service charge. The granting of requalification requests shall require the approval of the Township Board and would be effective on December 31st of the year in which the approval was granted for the subsequent tax year. The provisions of subsection 2(a) and (b) below only apply to projects requesting a lower service charge than that provided under Section 6(1) above.
 - (a) Housing projects requesting a lower service charge may be required to enter into a Municipal Services Agreement (hereinafter referred to as "MSA") with the Township. The MSA is intended to cover the additional costs for Police and Fire Protection due to the development of the housing project and the additional occupants now requiring such protection. The suggested MSA calculation follows:
 - (1) The initial market value of the property will be established between the Sponsor and the Township. The market value shall be used to determine the initial Assessed and Taxable Values (at 50% of the agreed upon market value) and shall become the basis of the MSA calculation. This is an agreed upon value for purposes of the MSA. It is not the official SEV. For each subsequent year, the previous year Taxable Value shall be increased by the lesser of 5%, or the CPI, as determined annually by the State Tax Commission in accordance with Proposal A of 1994, as amended; and
 - (2) An annual millage rate of 5 applied to the Taxable Value, as calculated above, shall be the MSA Payment, for the duration of the exemption; and
 - (3) The MSA payment shall be made by April 1st each year.
 - (b) Once the MSA is signed by the Sponsor and the Township, the Sponsor understands this removes their right to appeal any subsequent year value, as established by Subsection 2(a)(1) above, to the Michigan Tax Tribunal for the term of the MSA.

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- (c) Notwithstanding the foregoing, the sum of the service charge and the MSA payments together shall not exceed 10% of the Annual Shelter rents.
- (3) Housing projects provided with rental assistance under Section 8 of the US Housing Act of 1937, as amended, shall pay a service charge in the amount equal to four (4) percent of the shelter rents collected in the preceding calendar year, exclusive of any charges for gas, electricity, heat, or other utilities furnished to the occupants.

For clarity, this Ordinance confirms that for each Qualified Project receiving a tax exemption under this Section, the Sponsor and the Township may, but shall not be required to, enter into an MSA (as defined in subsection 2(a) above) unless said project is requesting a lower service charge than that provided under Section 6(1) above.

Section 7. Resolution; Contractual Effect.

A Resolution of the Township Board granting tax exempt status and establishing the annual service charge, as provided in this Ordinance, shall be adopted for each housing project qualified under the terms and provisions of this 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, will be effectuated upon adoption of such a Resolution by the Township Board.

Section 8. 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 a housing project that is tax-exempt but 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 project if the housing project were not tax exempt.

Section 9. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance or the Resolution shall be payable in the same manner as general property taxes are payable to the Township and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before April 1st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

Section 10. Application Fee.

Applicant shall pay an application fee at the time of the initial request for a Payment In Lieu of Taxes, as approved annually by the Township Board in their Schedule of

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Fees. At its discretion, the Township Board may consider deferring or waiving the application fee.

Section 11. Duration.

The tax-exempt status of a housing project approved for such status by Resolution of the Township Board shall remain in effect and shall not terminate for:

- A. so long as a Mortgage Loan for such housing project remains outstanding and unpaid; or
- B. such period of time as the housing project remains in the extended use period pursuant to the Low-Income Housing Tax Credit program;

but not to exceed fifty (50) years.

Notwithstanding anything in this Section 11 to the contrary, in no event shall the Term of the exemption be less than sixteen (16) years following the date that the last Building in a Qualified Project is placed in service (i.e., issuance of the last certificate of occupancy for the Qualified Project).

Section 12. 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 this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision declared to be unconstitutional or invalid.

Section 13. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 14. Effective Date.

This Ordinance shall become effective after publication.

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The following voted:

Yeas: Steve Duell, Molly Agostinelli, Chloe Macomber, Denise Schmuckal and Chuck Korn


Nays: None

Abstain: None

Absent: Chris Barsheff and Lanie McManus

CERTIFICATION

I hereby certify that the foregoing was duly adopted by the Township Board of the Garfield Charter Township, Grand Traverse County, Michigan, at its regular meeting on the 13th day of June, 2023 and that five (5) members of the Township Board were present and voted for the adoption of the Ordinance.



Lanie McManus, Township Clerk
Charter Township of Garfield

Introduced:	March 14, 2023
Adopted:	June 13, 2023
Published:	June 18, 2023
Effective:	June 18, 2023