

CHAPTER 99 – PAYMENT IN LIEU OF TAXES ORDINANCE

99.01 This ordinance shall be known and may be cited as the enactment of Chapter 99, Payment in Lieu of Taxes Ordinance of the Code of the City of Troy. It incorporates Ordinance Agreement No. 83, amended by Ordinance Agreement No. 85, amended by Ordinance Agreement No. 87, established by Resolution #97-885-C-21, adopted on December 15, 1997 (Schedule 1), which establishes a service charge in lieu of taxes for the Magnolia Gardens Housing Development project. It also replaces Ordinance Agreement No. 55, dated January 22, 1973, amended by Ordinance Agreement No. 55-1, dated November 22, 1976 (Schedule 2), which establishes a service charge in lieu of taxes for Oakland Grand Haven Limited Dividend Housing Association LLC (Oakland Park Towers).

99.02 **Purpose.** The City of Troy has determined that providing housing for elderly 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 exemptions for such housing is a valid public purpose. The City of Troy is authorized, under the State Housing Development Authority Act, Public Act 346 of 1966 of the State of Michigan (Mich. Comp. Laws Section 125.1401 et. seq.), as amended, to establish or change the service charge to be paid in lieu of property taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. The continuance of the provisions of this Ordinance 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.

99.03 **Definitions.** The following definitions are to be used in this Chapter:

- (1) **Act** means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan (Mich. Comp. Laws Section 125.1401 et. seq), as amended.
- (2) **Annual Shelter Rent** means the total collections during the agreed annual period from all occupants of a housing development representing rent or occupancy charges.
- (3) **Authority** means the Michigan State Housing Development Authority.
- (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.
- (5) **Elderly Persons** means a single person who is 55 years of age or

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older or a household in which at least one member is 55 years of age or older and all of the members are 50 years of age or older.

- (6) **Housing Development** means a development which contains a significant element of housing for elderly persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improved the quality of the development as it relates to housing for elderly persons of low income.
- (7) **Mortgage Loan** means a loan to be made by the Authority to the Sponsor for the construction, permanent financing, or refinancing of the Housing Development.
- (8) **Sponsor** means a person or entity that has applied to the Authority for a mortgage loan to finance or re-finance a Housing Development.
- (9) **Utilities** means fuel, water, sanitary sewer service and/or electrical service that are paid by the Housing Development.

99.04 **Class of Housing Developments.** The class of eligible Housing Developments qualifying for payments in lieu of taxes under this Ordinance is limited to housing for Elderly Persons of low income, which are financed or assisted pursuant to the Act. Oakland Park Towers and Magnolia Gardens have previously been determined to fall within this eligible class of Housing Developments.

99.05 **Establishment of Annual Service Charge.** Except as otherwise provided below, an annual service charge of 10% of 95% of the Annual Shelter Rents actually collected will apply to any future agreements under the provisions of this Ordinance.

99.05.01 **Magnolia Gardens.** Pursuant to Ordinance Agreement 87, (December 15, 1997), the contract which is incorporated herein, the Sponsor of the Housing Development identified as Magnolia Gardens agreed to pay to the City of Troy, on account of the Housing Development, an annual service charge for public services in lieu of all property taxes from and after the commencement of construction of the Housing Development, so long as the Mortgage loan remains outstanding and unpaid or the Authority has any interest in the property. Pursuant to Ordinance Agreement No. 87, incorporated herein, the annual service charge for the Magnolia Gardens Housing Development is 4% of the difference between the Annual Shelter Rents actually collected and annual Utilities. This service charge is to be paid on or before April 15 of each calendar year. Ordinance Agreement No. 87, incorporated herein, also required the Sponsor to provide transportation for the residents of Magnolia Gardens,

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and to make a \$140,000 contribution to improvements to Grand Haven Avenue.

- 99.05.02 **Oakland Park Towers.** Pursuant to Ordinance Agreement No. 55 (November 22, 1976), the contract which is incorporated herein, the Sponsor of the Housing Development identified as Oakland Park Towers agreed to pay to the City of Troy, on account of the Housing Development, an annual service charge for public services in lieu of all property taxes from and after the commencement of construction of the Housing Development, so long as the Mortgage loan remains outstanding and unpaid or the Authority has any interest in the property, and for a period not longer than 40 years. Pursuant to Ordinance Agreement No. 55, incorporated herein, the annual service charge for the Oakland Park Towers Housing Development is 10% of 95% of the total rental or occupancy charges collected or to be collected by the Mortgagor annually as to each of the living units within the Development. This service charge is to be paid on or before August 15 of each calendar year. Ordinance Agreement No. 55 may be replaced by a subsequent agreement concerning the same property.
- 99.06 **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 the 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.
- 99.07 **Payment of Service Charge.** Except as otherwise provided, the 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 March 1 of each year.
- 99.08 **Duration.** This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan, entered into with reliance on the enactment and continuing effect of the 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, remains outstanding and unpaid or the Authority has any interest in the property, not to exceed for (40) years.
- 99.09 **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 or 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

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than the section or provision so declared to be unconstitutional or invalid. All ordinance or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

- 99.10 **Effective Date.** This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur. This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver Rd., Troy, MI on the 6th day of January, 2003.