

## Chapter 99 – Payment in Lieu of Taxes Ordinance

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99.01 This ordinance shall be known and may be cited as the enactment of Chapter 99, Payment in Lieu of Taxes Ordinance (PILOT) of the Code of the City of Troy. The City has previously incorporated and approved a PILOT Agreement for Magnolia Gardens Housing Development Project Ordinance Agreement No. 87, established by Resolution #97-885-C-21, adopted on December 15, 1997. It also incorporates a previously City approved PILOT Agreement for Oakland Grand Haven Limited Dividend Housing Association LLC (Oakland Park Towers), (Ordinance Agreement No. 55-1, dated November 22, 1976. It allows for the Troy City Council, in its sole discretion and on a case by case basis, to approve additional 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 as PILOT projects for Oakland Park Towers II and also any future new construction projects that satisfy the criteria with a resolution.  
(Amended 08-27-2018; Effective 09-06-2018)

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 or paid on behalf of all occupants of a housing development representing rent or occupancy charges, exclusive of Utilities.  
(Amended 08-27-2018; Effective 09-06-2018)
- (3) Authority means the Michigan State Housing Development Authority.

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- (4) Contract Rents means the total Contract Rents, as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended, received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities (Amended 08-27-2018; Effective 09-06-2018)
- (5) Elderly Persons means a single person who is 55 years of age or 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 newly constructed or renovated or rehabilitated development where there is new investment of at least \$8,000,000, 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. (Amended 08-27-2018; Effective 09-06-2018)
- (7) LIHTC Program means the Low Income Housing Tax Credit Program administered by the Authority pursuant to Section 42 of the Internal Revenue Code of 1986, as amended. (Amended 08-27-2018; Effective 09-06-2018)
- (8) 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 secured by a mortgage on the Housing Development. (Amended 08-27-2018; Effective 09-06-2018)
- (9) Sponsor means a person or entity that receive or assume a Mortgage Loan. (Amended 08-27-2018; Effective 09-06-2018)
- (10) Utilities means charges for gas, electric, water, sanitary sewer service and other utilities furnished to the occupants that are paid by the Housing Development. (Amended 08-27-2018; Effective 09-06-2018)

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, where there is new construction or rehabilitation with a minimum investment of \$8,000,000, which are financed with a Mortgage Loan. Oakland Park

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Towers and Magnolia Gardens have previously been determined to fall within the eligible class of Housing Developments.  
(Amended 08-27-2018; Effective 09-06-2018)

- 99.05     **Establishment of Annual Service Charge.** Housing Developments within the eligible Class set forth in Section 99.04 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 City 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 City will accept payment of an annual service charge for 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 or Contract Rents actually collected by the housing project during each operating year, as established by a Resolution adopted by the City Council. 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.  
(Amended 08-27-2018; Effective 09-06-2018)
- 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, 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

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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 **Resolution; Contractual Effect.** A resolution of the City Council 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, in the case of a housing project receiving an Authority-financed Mortgage Loan, a contract between the City 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 City Council.  
(Amended 08-27-2018; Effective 09-06-2018)
- 99.07 **Limitation on the Payment of Annual Service Charge.** Notwithstanding Section 99.05, 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.  
(Amended 08-27-2018; Effective 09-06-2018)
- 99.08 **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 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 March 1 of the following year, except as otherwise provided in this Ordinance or by City Council resolution.  
(Amended 08-27-2018; Effective 09-06-2018)
- 99.09 **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

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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, and the Housing Development remains subject to income and rent restrictions under the LIHTC Program, but shall not exceed (40) years.  
(Amended 08-27-2018; Effective 09-06-2018)

- 99.10 **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 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 than the section or provision so declared to be unconstitutional or invalid.  
(Amended 08-27-2018; Effective 09-06-2018)