

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING DIVISION 4 OF ARTICLE 2 OF CHAPTER 70, TAXATION, SPRING MANOR APARTMENTS (FORMERLY KNOWN AS MALL DRIVE APARTMENTS) PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES.

THE CITY OF PORTAGE ORDAINS:

That Division 4 of Article 2 of Chapter 70, Taxation, is hereby amended as follows:

DIVISION 4. SPRING MANOR APARTMENTS

Sec. 70-111. Preamble.

It is acknowledged that the Spring Manor Apartments has received tax credits under the LIHTC Program from the authority and is subject to extended use and rent restrictions.

Sec. 70-112. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the State Housing Development Authority Act (MCL 125.1401 et seq., MSA 116.114(1) et seq.).

Annual shelter rent means the total collections during a calendar year or part thereof from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

Authority means the state housing development authority.

Elderly means those persons defined as elderly pursuant to the federally-aided mortgage loan program in which the sponsor participates.

LIHTC Program means the Low Income Housing Tax Credit Program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Housing development means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.

Mortgage loan means a federally-aided mortgage as defined in Section 11(c) of the Act.

Senior citizen means those persons exempted under section 501(1)(c) of Public Act No. 453 of 1976 (MCL 37.2503(1)(c), MSA 3.548(503), (1)(c)) whose income does not exceed 60 percent of the county area median income adjusted for family size.

Sponsor means the persons who have applied for a federally-aided mortgage loan to finance a housing development.

Sec. 70-113. Exemption of senior citizen housing developments.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be elderly housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq., MSA 6.114(1) et seq.). It is further determined that the housing development known as Spring Manor Apartments is of this class.

Sec. 70-114. Amount of service charge on part of development occupied by senior citizens.

The housing development identified as Spring Manor Apartments Project and the property on which shall be constructed shall be exempt from all property taxes from and after the date when the project was refinanced and rehabilitation commenced. The city, acknowledging that the sponsor has established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this division, and in consideration of the Authority's allocation of the low income housing tax credit to the housing development and in consideration of the mortgage loan to the sponsor to finance the sponsor's rehabilitation of the housing development, subject to the satisfaction of all the terms and conditions of the mortgage loan commitment to the sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the sponsor. The annual service charge shall be five percent of the annual shelter rents on that part of the housing development which is occupied by elderly citizens, or the tax on the property on which the project is located for the tax year before the date rehabilitation commenced, whichever is greater. Effective the first full calendar year of operation, however, the annual service charge shall not be less than \$32,283.00. The sponsor shall pay the annual service charge for a period of 15 years of operation, beginning after the issuance of a certificate of compliance for the rehabilitation project. Thereafter, for the 16th through the 35th years, the annual service charge shall be reviewed, and if a federally-aided mortgage loan is still in effect, the annual service charge stated in this section shall not change.

Sec. 70-115. Contractual effect of division.

Notwithstanding the provisions of section 15a(5) of the act (MCL 125.1415a(5)), to the contrary, a contract between the city and the Authority with the sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division, is effectuated by enactment of this division.

Sec. 70-116. Payment of service charge.

The service charge in lieu of taxes, as determined according to this division, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$32,283.00 is due on or before December 31 of each year.

- (2) Based on an audit all additional amounts owing from the previous year, is due by July 1 of each year.

Sec. 70-117. Verification of annual shelter rent.

The sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported by the sponsor or other form of financial documentation deemed suitable by the city.

Sec. 70-118. Effective period of division.

This division shall:

- (1) Become effective only after sponsor receives and closes a federally-aided mortgage loan; and
- (2) Remain in effect and shall not terminate so long as a federally-aided mortgage loan remains outstanding and unpaid, but not to exceed thirty-five (35) years from the closing of a federally-aided mortgage loan, or so long as the housing development remains subject to the extended use restrictions of the LIHTC program, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of any federally-aided mortgage loan, this division shall automatically terminate.

Peter J. Strazdas, Mayor

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