

VILLAGE OF OTISVILLE
COUNTY OF GENESEE, MICHIGAN

ORDINANCE NO. 208

AN ORDINANCE TO AUTHORIZE THE PAYMENT OF AN ANNUAL SERVICE CHARGE IN LIEU OF TAXES FOR RESIDENTIAL UNITS SERVING LOW INCOME OR MODERATE INCOME PERSONS IN ACCORDANCE WITH THE STATE HOUSING DEVELOPMENT AUTHORITY, ACT 346 OF THE PUBLIC ACTS OF MICHIGAN OF 1966, AS AMENDED, AND MATTERS RELATED THERETO
THE VILLAGE OF OTISVILLE ORDAINS:

Section 1. Purpose. This Ordinance authorizes and approves an annual service charge in lieu of taxes for residential housing developments that: (a) serve Low Income or Moderate Income Persons (as defined in the State Housing Development Authority Act, Act 346 of the Public Acts of Michigan of 1966, as amended, and this Ordinance); (b) are financed or assisted by the Authority in accordance with Act 346; (c) are located within the Village; and (d) comply with this Ordinance.

Section 2. Title. This Ordinance shall be known and cited as the "Village of Otisville Tax Exemption Ordinance."

Section 3. Preamble. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for low income citizens and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with Act 346. The Village is authorized by Act 346 and this Ordinance to establish or change the annual service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under Act 346 at any amount it chooses not to exceed the taxes that would be paid but for Act 346. It is further acknowledged that housing for low income persons and families is a public necessity, and as the Village 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; further, that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes 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.

The Village acknowledges that Venture Centerpark Limited Dividend Housing Association Limited Partnership (the "Sponsor" as defined in Section 4 of this Ordinance) has offered, subject to receipt of a Federally-aided Mortgage, to rehabilitate, own and operate a housing development identified as "Centerpark Apartments" on certain property located on Center Street within the Village of Otisville, Michigan, which is legally described in Section 4.E. of this Ordinance, to serve Low Income or Moderate Income Persons, and that the Sponsor has offered to pay and will pay to the Village, on account of the Housing Development, an annual service charge for public services in lieu of all taxes.

Section 4. Definitions. The terms used within this Ordinance shall have the following meanings:

- A. "Act" means the State Housing Development Authority Act, being Act 346 of the Public Acts of Michigan of 1966, as amended.
- B. "Annual Shelter Rent" means the total actual collections during each calendar year from all occupants of a housing development representing rents or occupancy charges, which rental amounts shall be exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.
- C. "Authority" means the Michigan State Housing Development Authority.
- D. "Class" means the Housing Development known as Centerpark Apartments for Low Income or Moderate Income Persons.
- E. "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.
- F. "Federally-Aided Mortgage" means any of the following:
 - (i) A below market interest rate mortgage insured, purchased, or held by the Secretary of the Department of Housing and Urban Development.
 - (ii) A market interest rate mortgage insured by the Secretary of Housing and Urban Development and augmented by a program of rent subsidies.
 - (iii) A mortgage receiving interest reduction payments provided by the Secretary of the Department of Housing and Urban Development.
 - (iv) A mortgage on a Housing Development to which the Authority allocates low income housing tax credits under Section 22b.
 - (v) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.

- G. "Housing Development" means a development which contains a significant element of housing for persons of low 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 income. For the purposes of this Ordinance, "Housing Development" means Centerpark Apartments located on the property legally described as:

PART OF LOT 18 BEG N 1 DEG 25 MIN 13 SEC E 139.46 FT FROM SE COR OF LOT 18 TH N 88 DEG 31 MIN 51 SEC W 321.62 FT TH N 1 DEG 30 MIN E 182.79 FT TH N 62 DEG 16 MIN 04 SEC E 367.98 FT TH S 1 DEG 25 MIN 13 SEC W 362.32 FT TO PL OF BEG LAINGS ADDITION (88) FR 0900044020

- H. "Low Income or Moderate Income Persons" shall be as defined in the Act, as amended.
- I. "Sponsor" means person(s) or entities which have applied to the Authority for the Tax Credits to finance a Housing Development For the purposes of this Ordinance, the Sponsor is Venture Centerpark Limited Dividend Housing Association Limited Partnership.
- J. "Tax Credits" means the low income housing tax credits made available by the Authority to the Sponsor for rehabilitation of the Housing Development by the Sponsor in accordance with the Low Income Housing Tax Credit Program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- K. "Utilities" means fuel, water, sanitary sewer service and/or electrical service, which are paid by the Housing Development

Section 5. Class of Housing Development This Ordinance shall apply only to the Housing Development to the extent that the Housing Development provides housing for Low Income and Moderate Income Persons and is financed or assisted by the Authority pursuant to the Act.

Section 6. Establishment of Annual Service Charge

- A. The Village acknowledges that the Sponsor and the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Development for exemption from all property taxes and payment of an annual service charge in lieu of taxes in an amount established in accordance with this Section. In consideration of the Sponsor's offer to rehabilitate, own and operate the Housing Development, subject to receipt of the Tax Credits from the Authority, the Village agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes that would otherwise be assessed to the Housing Development under Michigan law.

- (1) Effective upon the adoption of this ordinance and subject to the receipt by the Village of the "Notification of Exemption" (or such other similar notification) by the sponsor and/or the Authority, the annual service charge shall be equal to \$13,144.12.
- (2) Each year thereafter, the annual service charge to be paid by the Sponsor to the Village, as stated in subsection (1) above, shall increase two percent (2%). Assuming the Housing Development is exempt from taxes and subject to the annual service charge in lieu of taxes beginning in the year 2011, the amounts due under the terms of this Ordinance will be as follows:

Year of PILOT	Calendar Year	2% Annual Increase	Annual Service Charge	Payment Due On or Before
1	2011		\$13,144.12	12/01/2011
2	2012	\$262.88	\$13,407.00	09/01/2012
3	2013	\$268.14	\$13,675.14	09/01/2013
4	2014	\$273.50	\$13,948.65	09/01/2014
5	2015	\$278.97	\$14,227.62	09/01/2015
6	2016	\$284.55	\$14,512.17	09/01/2016
7	2017	\$290.24	\$14,802.41	09/01/2017
8	2018	\$296.05	\$15,098.46	09/01/2018
9	2019	\$301.97	\$15,400.43	09/01/2019
10	2020	\$308.01	\$15,708.44	09/01/2020
11	2021	\$314.17	\$16,022.61	09/01/2021
12	2022	\$320.45	\$16,343.06	09/01/2022
13	2023	\$326.86	\$16,669.92	09/01/2023
14	2024	\$333.40	\$17,003.32	09/01/2024
15	2025	\$340.07	\$17,343.39	09/01/2025
16	2026	\$346.87	\$17,690.25	09/01/2026
17	2027	\$353.81	\$18,044.06	09/01/2027

B. The Housing Development, and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of rehabilitation of the Housing Development by the Sponsor under the terms of this Ordinance.

Section 7. Limitation on the Payment of Annual Service Charge. Notwithstanding Section 6, if any portion of the Housing Development is occupied by other than Low Income and Moderate Income Persons, the full amount of the taxes that would be paid on those units of the Housing Development if the Housing Development were not tax exempt shall be added to the service charge in lieu of taxes.

Section 8. Contractual Effect of Ordinance. Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, and subject to the terms of this Ordinance including, but not limited to Section 11 herein; this Ordinance constitutes a contract between the Village and the Sponsor to provide an exemption from ad valorem property taxes and to accept the payment of an annual service charge in lieu of such taxes, as previously described in this Ordinance. It is expressly recognized that the Authority is a third party beneficiary to this Ordinance.

Section 9. Payment of Service Charge. The service charge in lieu of taxes shall be payable to the Village in the same manner as ad valorem property taxes are payable, except that the annual payment shall be paid on or before December 1, 2011 the first year of this agreement, and then on or before September 1 of each year thereafter.

Section 10. Duration.

- A. Subject to subsection B, below, this Ordinance shall remain in effect and shall not terminate for a maximum term of 17 years and so long as the House Development remains subject to income and rent restrictions pursuant to an allocation by the Authority of Low Income Housing Tax Credits, as provided for in M.C.L. 125.1415a and 125.1422b, as amended, and so long as the housing development submits the required annual notification of exemption pursuant to M.C.L. 125.1415a(1), as amended.
- B. This Ordinance shall automatically terminate if rehabilitation of the Housing Development (a) does not commence within two (2) years from the effective date of this Ordinance, or (b) is not completed within one (1) year of commencement of rehabilitation. For purposes of this Section, "completed" means the issuance of a Certificate of Occupancy by the Village of Otisville building and/or zoning official.

Section 11. Filing of Annual Audit. The Sponsor, or its successor, shall file a copy of any and all audits required to be provided to the federal government, the State of Michigan, and/or the Authority simultaneously with the Village. The audit shall include detail with respect to occupancy of the Housing Development, Annual Shelter Rents received from the Housing Development, and the cost for utilities during the audit period.

Section 12. Duties of the Village Treasurer The Village Treasurer shall be responsible for the collection and disbursement of all annual service charges in the following manner:

- A. On or before July 1st of each year, the Treasurer shall send an invoice to the "Sponsor" indicating the amount owed and the payment due date as indicated on the payment schedule in Section 6. (2). Failure to receive said invoice does not relieve the "Sponsor" from their obligation to make the annual payment by the due date.

- B. Upon collection of the service charges, the Treasure shall distribute the revenues as prescribed by the Forest Township Assessor and or the State of Michigan to Forest Township, Genesee County and the Village of Otisville.
- C. The Treasurer shall keep accurate records of the payments in lieu of taxes.

Section 13. Publication; Effective Date. This Ordinance shall become effective ten (10) days following its publication.

Section 14. Repeal. This Ordinance Repeals Ordinance No. 197 in its entirety.

Tom Bess Jr., Village President

Andrea M. Barden, Village Clerk

I, the undersigned, the duly qualified and acting Clerk of the Village of Otisville, Genesee County, Michigan, do hereby certify that the foregoing Ordinance was adopted by the Village of Otisville at a regular Village Council meeting duly held on the 6th day of June, 2011, and posted in five public places.

Andrea M. Barden, Village Clerk

