

HOWELL TOWNSHIP, LIVINGSTON COUNTY

ORDINANCE NO. 284

**TAX EXEMPTION ORDINANCE - UNION AT OAK GROVE**

ADOPTED: May 11<sup>th</sup>, 2020

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low income persons and families to be financed with a federally-aided Mortgage Loan 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 TOWNSHIP OF HOWELL ORDAINS:

**SECTION 1.** This Ordinance shall be known and cited as the "HOWELL TOWNSHIP TAX EXEMPTION ORDINANCE - UNION AT OAK GROVE."

**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 Township 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 taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families 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* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The Township acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Union at Oak Grove\_\_ on certain property located at \_vacant land at the southwest corner of Henderson Road and Oak Grove Road in the Township to serve low income persons and families, and that the Sponsor has offered to pay the Township on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

**SECTION 3.** Definitions.

A. Annual Shelter Rent means the total collections during the calendar year in which an annual service charge is due and owing from or paid on behalf of all qualified occupants

of a housing project representing rent or occupancy charges, exclusive of Utilities.

B. Authority means the Michigan State Housing Development Authority.

C. 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.

D. Low Income Persons and Families means persons and families who meet the eligibility criteria defined in Section 11 of the Act and are 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 to the Sponsor 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 Union Development Holdings, LLC and any entity that owns or operates the housing development or receives or assumes a Mortgage Loan.

G. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the 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 a housing development owned by a nonprofit housing corporation, consumer housing cooperative, or limited dividend housing corporation for Low Income Persons and Families that are financed with a Mortgage Loan and that is, prior to initial occupancy, subject to covenants running with the land which require that it be maintained as housing for Low Income Persons for 30 years from the date of May 11, 2020 or the first full year of development operations. It is further determined that Union at Oak Grove is of this class.

#### **SECTION 5. Establishment of Annual Service Charge.**

The housing project identified as Union at Oak Grove and the property on which it will be located shall be exempt from all *ad valorem* property taxes for all calendar years commencing on the first day of the calendar year in which construction commences. The Township acknowledges that the Sponsor and the Authority 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 project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to construct and operate the housing project, the Township agrees to 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 the greater of (i) \$175,000.00 or (ii) 7.00% of the Annual Shelter Rents actually collected by the housing project during each operating year plus any payments owed to the Township under Section 7. The Township Treasurer shall provide notice of the annual service charge due to the Township by June 1st of each year.

**SECTION 6.        Contractual Effect of Ordinance.**

Notwithstanding the provisions of section 15a(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 set forth in the Ordinance, is created by approval and enactment of this Ordinance.

**SECTION 7.        Limitation on the Payment of Annual Service Charge.**

Notwithstanding Section 5, the annual service charge to be paid each year in lieu of taxes for the part of the 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. The payment due under Section 7 shall be computed by the Township Assessor using the same assessing techniques and procedure as the Township Assessor would use for any similar tax classified property. The Township Assessor, in arriving at the payment, shall determine the total tax valuable of the entire housing project and then apportion that tax valuable based on the amount of the housing project occupied by other than low income persons or families. The Sponsor shall provide all information available to the Township under Section 8, including non-confidential occupancy records with notations of whether the unit is occupied by Low Income Persons or Families or other than Low Income Persons or Families, and any other information required to comply with this Ordinance no later than April 1<sup>st</sup> of each year for the preceding calendar year. The Township Assessor shall calculate any payments due under Section 7 by April 30<sup>th</sup> of each year. Such information shall be provided to the Township Treasurer for calculation of the Annual Service Charge due under Section 5 of the Ordinance.

**SECTION 8. Payment of Service Charge.**

The annual service charge in lieu of taxes as determined under this Ordinance 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, except the annual payment shall be paid on or before July 1st of each year and distributed accordingly. Failure to pay the service charge on or before July 1st of each year shall result in application of an additional one (1) percent interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December 31 of each year, the amount unpaid shall be a lien upon the real property constituting the housing project upon the Township Treasurer filing a certificate of non-payment of the service charge, together with an affidavit of proof of service of the certificate of non-payment upon the sponsor with the Livingston County Register of Deeds, and collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA206, as amended; MCL211.1.). The Township reserves the right to inspect the records of the housing project at Township's request during normal business hours. The housing project shall make such records available upon such request, no later than ten business days after such request. Such records include, but are not limited to, non-confidential tenant occupancy information, non-confidential tenant information verifying the income status of a tenant, all payments received, and financial records.

**SECTION 9. Duration.**

This Ordinance shall remain in effect and shall not terminate until the later of thirty (30) years from either May 11, 2020 or the first full year of development operations. Notwithstanding the foregoing, this Ordinance shall automatically terminate if the housing project is no longer subject to income and rent restrictions under the LIHTC Program, qualifies for the LIHTC Program, fails to receive or maintain Authority approval, or the housing project does not commence on or before December of 2020, and is not completed by June of 2022.

**SECTION 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 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 so declared to be unconstitutional or invalid.

**SECTION 11. 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 12. Effective Date. May 20, 2020**