

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

ORDINANCE NO. 159

AMENDED AND RESTATED TAX EXEMPTION ORDINANCE

An Ordinance to provide for a service charge in lieu of taxes for a multiple family dwelling project for persons of low income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966.

THE SUPERIOR CHARTER TOWNSHIP ORDAINS:

Section 159.01.Short Title

This Ordinance shall be known and cited as the “Danbury Park Manor Tax Exemption Ordinance.”

Section 159.02. 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 citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCL Section 125.1401 *et seq.*). Superior Charter Township is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by an or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be but for this Act. It is further acknowledged that such housing for persons of low income is a public necessity, and as Superior Charter Township will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption 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 Charter Township of Superior acknowledges that Danbury Limited Dividend Housing Association LLC its successors and assigns (the “Sponsor”) has offered subject to receipt of a federally aided or state-aided mortgage as such terms are defined in the Actor subject to assumption of the existing LIHTC Program Regulatory Agreement to own and operate a housing development identified as Danbury Park Manor on certain property located at 9412 MacArthur Boulevard, Superior Charter Township, Washtenaw County, Michigan to serve persons of low income and that the

Sponsor has offered to pay Superior Charter Township on account of this housing development an annual service charge for public services in lieu of all taxes.

Section 159.03. Definitions.

- A. Authority means the Michigan State Housing Development Authority.
- B. Act means the State Housing Development Authority Act, being Public Act 346 of 1966, of the State of Michigan, as amended.
- C. Annual Shelter Rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.
- D. 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 improve the quality of the development as it related to housing for persons of low income.
- E. Low Income Persons or Families means low income persons or families as defined in Section 15(a)(7) of the Act.
- F. 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.
- G. Mortgage Loan means any state-aided or federally-aided mortgage as such terms are defined in the Act to the Sponsor for the permanent financing of the Housing Development.
- H. Utilities means fuel, water, sanitary sewer service and/or electrical service which are paid by the Housing Development.
- I. Sponsor means person(s) or entities which received a Mortgage Loan to finance a Housing Development or assumed the existing LIHTC Program Regulatory Agreement. Danbury Limited Dividend Housing Association LLC is presently the Sponsor of the Housing Development identified in this Ordinance.
- J. Township means the Charter Township of Superior.

Section 159.04. Class of Housing Developments

It is 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 shall be housing developments for low income persons, which are financed or assisted pursuant to the Act. It is further determined that Danbury Park Manor is of this class. On or before November 1 of each year, the Sponsor shall file an annual notification of

eligibility for the exemption by affidavit which shall include certification of eligibility by the Authority with the local assessing officer.

Section 159.05. Establishment of Annual Service Charge

The Housing Development identified as Danbury Park Manor and the property on which it is located shall be exempt from all property taxes from and after the date of enactment of this Ordinance. The Township, acknowledging that the Sponsor has established the continuing 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 a payment in lieu of taxes as established in this Ordinance, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. For the initial year under this agreement the Annual Service Charge shall be 4% of Annual Shelter Rents. For each year thereafter, the Annual Service charge shall be equal to the greater of the following:

- A. 4% of the Annual Shelter Rents actually collected and utilities; or
- B. The amount of the previous year's service charge increased by CPI, not to exceed 2% of that amount.

Additionally, Sponsor shall pay the administrative costs and attorney fees of the Township for establishment of the PILOT.

Section 159.06. Amendment of Annual Service Charge

In the event, the Security Service Agreement dated _____, 2016 between the Township and Sponsor is terminated for any reason, it is agreed that the provisions of Section 159.05 regarding the annual service charge shall be amended to provide that the Annual Service Charge shall be equal to the greater of the following:

- A. 7.5% of the difference between the Annual Shelter Rents actually collected and utilities; or
- B. The amount of the previous year's service charge increased by CPI, not to exceed 2% of that amount.

Section 159.07. 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 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.

The term "low income" as used herein shall be the same as found in Section 15(a)(7) of the Act.

The service charge provided by this Ordinance shall not exceed the tax that would be paid but for the Act and this Ordinance.

Section 159.08. Contractual Effect of Ordinance

Notwithstanding the provisions of Section 15(a) of the Act to the contrary, a contract between the Township and the Sponsor to provide tax exemption and accept payments in lieu of taxes is effectuated by enactment of this Ordinance.

Section 159.09. Payment of Service Charge

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 Township except that the annual payment shall be paid on or before May 1st of each year. Payment of the service charge in lieu of taxes after May 1st shall be subject to an additional monthly service charge of 0.5% on the unpaid balance.

The Sponsor agrees to provide documentation by calendar year of monthly rents collected and occupancy by month and unit for each Housing Development provided that the identity of tenants remains anonymous. Units shall be identified by efficiency, one-bedroom, two-bedroom and three-bedroom designations.

The Township shall be responsible for the distribution of the service charges in lieu of taxes to the several taxing units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year or as otherwise provided in the Act.

Section 159.10. Duration

It is the intent of the Township and Sponsor that this Ordinance shall remain in effect and shall not terminate so long as the Housing Development shall remain subject to income and use restrictions imposed by HUD or Section 42 of the LIHTC program or MSHDA. The Township further reserves the right to repeal this Ordinance in accordance with the Act.

It is further the intent of the Parties that in the event Housing Development is sold, transferred, or refinanced by the Sponsor or a related entity of the Sponsor, this Ordinance shall remain in full force and effect and without further action by the Sponsor or the Township to otherwise change, alter or amend this Ordinance.

Section 159.11. 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 the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to unconstitutional or invalid.

Section 159.12. Effective Date

The Township Clerk shall cause this Ordinance to be published in the manner required by law. This Ordinance shall be effective as of the date of final publication of the Ordinance and shall apply commencing with the 2017 tax year.

This Ordinance was duly adopted by the Charter Superior of Township Board at a special meeting called and held on the 29th day of November, 2016; and was introduced for first reading at a regular meeting held on the 21st day of November, 2016, and was ordered given publication in the manner required by law.

Kenneth Schwartz
Supervisor

Lynette M. Findley
Clerk

CERTIFICATE

I, Lynette M. Findley, Clerk of the Charter Township of Superior, Washtenaw County, Michigan, hereby certify that the foregoing constitutes a true and complete copy of Superior Charter Township Ordinance No. 159, which was duly adopted by the Township Board of the Charter Township of Superior at a special Meeting of said Board, held on the 29th day of November, after said Ordinance had previously been introduced at a Regular Meeting of the Board held November 21, 2016, and published in the form it was introduced in accordance with P.A. 359 of 1947, as amended.

I further certify that Member _____ moved for adoption of said Ordinance, and that Member _____ supported said Motion. I further certify that it was adopted unanimously.

Dated:

Lynette M. Findley
Clerk