CHARTER TOWNSHIP OF GARFIELD

AMENDED AND RESTATED ORDINANCE NO. 18

(PAYMENT IN LIEU OF TAXES)

An Ordinance to provide that the tax exemption and attendant provision for the payment of a service charge in lieu of taxes established in Section 15a(1) of the State Housing Development Authority Act, being Act No. 346 of the Public Acts of 1966, as amended (hereinafter referred to as the "Act"), shall apply only to those classes of housing projects within the boundaries of the Charter Township of Garfield to which Section 15a(1) applies and as more particularly defined within this Ordinance No. 18, and to provide that this Ordinance shall be effective thirty (30) days following legal publication.

THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Charter Township of Garfield Tax Exemption and Payment in Lieu of Taxes Ordinance.

Section 2. Public Purpose.

It is within the public purposes of the State of Michigan and its political subdivisions to facilitate the provision of adequate housing for its citizens of low income through the provision of an exemption from the payment of ad valorem property taxes with an attendant and consequent payment of service charges in lieu thereof in accordance with the provisions of the Act. The Charter Township of Garfield is authorized by the Act to establish or change the service charge to be paid in lieu of taxes by specific classes of housing exempt from the payment of ad valorem property taxes in amount which is not in excess of the amount of taxes that would otherwise be paid in the absence of such an exemption.

Section 3. Eligible Housing Projects.

The tax exemption established in Subsection (1) of Section 15(a) of the Act, Section 125.1415(a) shall apply to housing projects within the boundaries of the Charter Township of Garfield which meet all of the following criteria, upon approval of a resolution by the Township Board pursuant to Section 4, below:

(1) Projects which are financed with a Federally-aided or State-aided mortgage on a housing project to which the State Housing Development Authority (hereinafter referred to as the "Authority") allocates low income housing tax credits under section 22b.

(2) Projects which serve lower-income families, elderly, and/or handicapped.

Section 4. Resolution of Approval.

Prior to being eligible for tax exemption under this Ordinance, each housing development shall be presented to the Township Board, which shall make a determination by resolution as to whether the housing development qualifies for exemption and, if so, shall set forth the payment in lieu of taxes to be made for that housing development. Further, documentary evidence must be presented to the Township to establish that the project so qualifies, whether by making available to tenants a program of rent supplements or housing assistance payments, as established and allocated under the rules and regulations of either HUD or the Authority, or both, or otherwise qualifies by law.

Section 5. Property Tax Exemption.

Housing projects which qualify under Section 3 above may be granted the tax exemption provided in the above-mentioned subsection (1) of Section 15(a), provided the owner of a housing project has complied with the Act, is current with all taxes and assessments on the subject property, and submits an audited financial statement for each previous calendar year with the Township Assessor by August 1st, annually.

Section 6. Service Charge in Lieu of Taxes.

The service charge in lieu of property taxes shall be paid by the housing project owner as follows:

(1) Housing projects approved for tax exemption under this ordinance shall pay a service charge in the amount equal to ten (10) percent of annual shelter rent, except as provided in Subparagraph 2, below. Annual shelter rent is defined as the total collections from all occupants of a housing project exclusive of any charges for gas, electricity, heat, or other utilities furnished to the occupants.

(2) Housing projects approved for tax exemption under this ordinance may request a lower service charge, which the Township may set as part of its Resolution of Approval provided for in Section 4. Projects previously approved under this Ordinance may also request a requalification of the service charge. The granting of requalification requests shall require the approval of the Township Board and would be effective the subsequent tax year.

(a) Housing projects requesting a lower service charge may enter into a Municipal Services Agreement (hereinafter referred to as "MSA") with the Township. The MSA is intended to cover the additional costs for Police and Fire Protection due to the development of the housing project and the additional occupants now requiring such protection. The suggested MSA calculation follows:

(1) The initial market value of the property will be established between the housing project owner and the Township. The market value shall be used to determine the Assessed Value (50% of market) and the Taxable Value, and shall become the basis of the MSA calculation. For each subsequent year, that Taxable Value shall be increased by the CPI as determined annually by the State; and

(2) An annual millage rate of 5, for the duration of the exemption; and

(3) The MSA payment shall be made by April 1st each year.

(b) Once the MSA is signed by the housing project owner and the Township, the housing project owner understands this removes their right to appeal subsequent year's assessed or taxable values to the Michigan Tax Tribunal. Filing such an appeal shall cause the Township to begin action to revoke the exemption.

(3) Housing projects provided with rent assistance under the Section 8 Program of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974 as amended, shall pay a service charge in the amount equal to four (4) percent of the contract rents of the preceding calendar year, exclusive of any charges for gas, electricity, heat, or other utilities furnished to the occupants.

(4) The service charge shall be paid by April 1st of each year. Payments not received by April 1st shall be assessed late fees and/or interest, as provided by Michigan Tax Law, and shall be referred to the Township Board for review, and possible revocation of the exemption.

Section 7. Duration of Exemptions and Service Charges in Lieu of Taxes.

The exemption from real property taxes and attendant payment service charges in lieu thereof as provided by Section 15a of the Act and this Ordinance 18 shall remain in effect for (i) the original term of the Mortgage loan, (ii) for such period of time as the Authority extends the Qualified Project period pursuant to a Low Income Housing Tax Credit award, or (iii) fifty years, whichever is less.

Section 8. Application Fee.

Applicant shall pay an application fee at the time of the request for a Payment In Lieu of Taxes, as approved annually by the Township Board in their Schedule of Fees. At its discretion, the Township Board may consider deferring or waiving the application fee.

Section 9. Contractual Effect of Ordinance.

Notwithstanding the provisions of Section 4 of the Act, to the contrary, a contract shall be deemed effective between the Township and the housing project owner, with the Authority as third party beneficiary hereunder, to provide tax exemption and accept payments in lieu of taxes as previously described by the enactment of this Ordinance and adoption of a project specific resolution.

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 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.

Section 11. Effective Date.

This Ordinance shall become effective thirty (30) days after publication. All existing ordinances in conflict with the content of this Ordinance 18 shall be and the same are hereby repealed to the extent necessary to eliminate such conflict.

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(PAYMENT IN LIEU OF TAXES)

The following voted:

Yeas: Agostinelli, Blood Law, Schmuckal, Walters, McManus, Korn

Nays: None

Abstain: None

Absent: Duell

CERTIFICATION

I hereby certify that the foregoing was duly adopted by the Township Board of the Garfield Charter Township, Grand Traverse County, Michigan, at its regular meeting on the 27 day of February, 2018 and that 6 six members of the Township Board were present and 6 six voted for the adoption of the Ordinance.

Lanie McManus, Township Clerk
Charter Township of Garfield

Introduced:	January 23, 2018
Adopted:	February 27, 2018
Published:	March 11, 2018
Effective:	April 10, 2018