

**CITY OF LESLIE
ORDINANCE NO. 198**

An Ordinance to provide for a service charge in lieu of taxes for a proposed multiple family dwelling project for low income persons or families pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

THE CITY OF LESLIE ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the "Worthington Place Apartments PILOT Ordinance."

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 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 125.1401, *et seq*, MSA 116.114(1), *et seq*). The City 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 housing for persons of low income is a public necessity, and the City will be benefitted and improved by such housing. It is further acknowledged that providing certain real estate tax exemptions 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 taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of housing development known as Worthington Place Apartments, including Phase 1 and Phase 2 which is to be constructed and financed in reliance on this Ordinance.

The City acknowledges that Worthington Place Apartments I Limited Dividend Housing Association Limited Partnership (as to Phase 1) and Worthington Place Apartments II Limited Dividend Housing Association Limited Partnership (as to Phase 2) (the "Sponsor") has offered, subject to receipt of allocations under the LIHTC Program from the Michigan State Housing Development Authority, to erect, own and operate a housing development identified as Worthington Place Apartments (Phase 1 and Phase 2) on certain property located in the City generally described as an approximate 13.83 acre parcel of land located North of Race Street, East of Hull Road and West of Pennsylvania, currently known as Worthington Place Condominium according to the Master Deed recorded in Liber 3232, Page 35 *et seq*, to serve persons of low income with and to give preference to Veterans, and that the Sponsor has offered to pay the City on account of this housing

development an annual service charge for public services in lieu of all taxes.

SECTION 3. Definitions.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, being Public Act 346 of 1966 of the State of Michigan, as amended, except as follows:

A. Act means the State Housing Development Authority Act, being Public Act 346 of 1966 of the State of Michigan, as amended.

B. 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.

C. Authority means the Michigan State Housing Development Authority, a public body, corporate and politic of the State of Michigan.

D. Housing Development means a development which contains a significant element of housing for persons or families 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 relates to housing for individuals or families of low income.

E. 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.

F. Low Income Persons and Families. This Ordinance shall apply to low income persons or families as defined in Section 15(a) (7) of the Act.

G. Utilities mean sanitary sewer service and water which are provided by the Housing Development, and which are paid for by the Sponsor.

H. Sponsor means a person(s) or entity which will apply to the Authority for an allocation under the LIHTC Program to finance a Housing Development.

SECTION 4. 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 low income individuals or families, with a preference being given by Sponsor to Veterans, which are assisted pursuant to the Act. It is further determined that Worthington Place Apartments (Phase I and Phase 2) is of this class.

SECTION 5. Establishment of Annual Service Charge.

The Housing Development identified as Worthington Place Apartments (Phase I and Phase 2) and the property on which it shall be constructed shall be exempt from all property taxes from and after the commencement of construction during the continuation of this Ordinance. The City, acknowledging that the Sponsor and the Authority intend to establish 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 a payment in lieu of taxes as established in this Ordinance, and in consideration of the Sponsors' offer, subject to receipt of an allocation under the LIHTC Program from the Authority and compliance with the terms and conditions of this Ordinance, to construct, own and operate the Housing Development in accordance with applicable law and the City Charter and Code of Ordinances, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to 4% of the Annual Shelter Rent actually collected.

SECTION 6. 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 persons or families" as used herein shall be the same meaning as found in Section 15(a) (7) of the Act.

SECTION 7. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City 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 previously described, is effectuated by enactment of this Ordinance by City Council.

SECTION 8. Payment of Service Charge.

The annual 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 City except that the annual payment shall be paid on or before April 15th of each year.

SECTION 9. Duration.

This Ordinance shall remain in effect for a period of twenty (20) years and shall not terminate so long as the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended; and provided that construction of the Housing Development commences within one year from the effective date of this Ordinance and is completed within twenty four (24) months thereafter. If the construction of the Housing

Development does not commence within one year from the effective date of this Ordinance and completed within twenty four (24) months thereafter, this Ordinance shall automatically expire and be of no effect. If at any time the Housing Development fails to qualify for a payment in lieu of taxes under the Act, this ordinance shall automatically terminate.

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. Acknowledgment.

The City hereby acknowledges that the Authority's participation with the Housing Development is limited solely to the allocation of tax credits under the LIHTC Program.

SECTION 12. Effective Date.

This Ordinance shall become effective on December 5, 2010, or as otherwise provided in the Charter. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Certified to be a true and accurate copy of an Ordinance duly adopted by the Leslie City Council at its meeting held on the 23rd day of November, 2010



Denae Davenport, Leslie City Clerk