

## DRAFT ORDINANCE “PILOT”

AN ORDINANCE TO PROVIDE A SERVICE CHARGE IN LIEU OF TAXES FOR A PROPOSED LIMITED DIVIDEND HOUSING ASSOCIATION PROJECT FOR PERSONS OF LOW INCOME TO BE FINANCED OR ASSISTED UNDER THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, AS AMENDED.

THE CHARTER TOWNSHIP OF PITTSFIELD, WASHTENAW COUNTY, MICHIGAN ORDAINS:

### Section 1. Short title:

This Ordinance shall be known and cited as the “Charter Township of Pittsfield, Apartments on Clark Limited Dividend Housing Association Tax Exemption Ordinance.”

### Section 2. Purpose

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”).

### 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 its low income citizens 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 Charter Township of Pittsfield (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 certain 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 housing projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

The Township acknowledges that Lockwood Development, LLC (the “Sponsor”) has offered, subject to the adoption of a PILOT by the Township, to acquire, rehabilitate, own and operate a

housing project identified as Apartments on Clark on certain property located at \_\_\_\_\_ in the Township to serve low income persons and families (the “Housing Project”), and that the Sponsor has offered to pay the Township on account of this housing development an annual service charge for public services in lieu of all *ad valorem* property taxes. Apartments on Clark is subject to long-term rent and income restrictions and is eligible to receive a PILOT having received an allocation under the LIHTC Program by the Michigan State Housing Development Authority (the “Authority”).

#### Section 4. 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 or any amount paid to the Sponsor on behalf of any occupant 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. Contract Rents means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a Housing Project during an agreed annual period, exclusive of Utilities.

E. Housing Project means a project which contains a significant element of housing for low income persons and families and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the project as it related to housing for persons and families of low income.

F. Low Income Persons and Families means persons and families whose household income does not exceed 60% of area median income, as determined by the U.S. Department of Housing and Urban Development, adjusted for family size.

G. 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.

H. 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.

I. Sponsor means Lockwood Development, LLC and any entity that receives or assumes a mortgage loan and is an eligible mortgagor under the Act.

J. Utilities means gas, water, sanitary sewer service, electrical service, and other utilities furnished to the occupants which are paid by the Housing Project.

#### Section 5. 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 Housing Projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Apartments on Clark Limited Dividend Housing Association is of this class.

#### Section 6. Establishment of Annual Service Charge.

The Housing Project identified as Apartments on Clark Limited Dividend Housing Association and the property on which it is located shall, subject to the limitations and conditions of this Ordinance, be exempt from all property taxes from and after the commencement of construction of the project. In consideration of the Sponsor's offer to acquire, own and operate the Housing Project, the Township 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 difference between the Annual Sheltered Rent actually collected and Utilities.

#### Section 7. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 6, the service charge to be paid each year in lieu of taxes for the part of the Housing Project, which is tax exempt and which is occupied by other than low income persons or families, if any, 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 Service Charge provided by this Ordinance shall not exceed the taxes that would be paid but for the Act and this Ordinance.

Section 8. Additional Contributions to Health and Welfare of Township Residents.

The Sponsor shall pay any Special Assessments in effect for the Housing Project.

Within 12 months of the effective date of this ordinance, the Sponsor shall enter into a mutually defined agreement with the Township for regular rental inspections by the Township and shall pay for the costs of such inspections. In the event the Township adopts an ordinance requiring certificates of compliance for rental housing, the Sponsor shall comply with all terms of the ordinance.

The Sponsor shall comply with all terms of the Regulatory Agreement governing the Housing Project as amended from time to time.

Section 9. 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 previously described, is effectuated by enactment of this Ordinance; provided, however, that nothing contained in this Ordinance shall constitute a waiver of any rights the Township may possess or exercise under the provisions of Section 15a(2) of the Act.

Section 10. 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 December 1, of each year and shall be distributed to the several units levying the general property tax in the same proportion as for general property taxes. Failure to pay the service charge on or before December 1, of each year shall result in the service charge being subject to one per cent (1%) interest per month until paid. If any amount of the annual service charge or accrued interest shall remain unpaid as of December 31<sup>st</sup> 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 on non-payment upon the Sponsor with the Washtenaw County Register of Deeds, and proceedings may then be had to enforce the lien as provided by law for the foreclosure of tax liens upon real property.

Section 11. Documentation Supplied.

On or before April 1 of each year, the Sponsor shall file with the Township audited financial statement showing all revenues for the Housing Project, including but not limited to rent or occupancy charges and subsidies received from the Housing Project and expenses, including utilities. Such audited financial statements shall show revenues and expenses separately for units considered occupied by persons or families of low income, and units occupied by individuals other than persons or families of low income during the previous year. The Township shall determine the applicable service charge in accordance with Section 6. The Township may require such other or further financial information as may be necessary to accurately determine the service charge due pursuant to this Ordinance. The Township shall submit a statement for the service charges for each year by September 1. Failure of the Township to provide such statement or failure of the Sponsor to receive such statement shall not invalidate any service charge owed pursuant to this Ordinance.

Section 12. Duration.

Provided that the Sponsor acquires the Housing Project within twelve (12) months of the effective date of this Ordinance, this Ordinance shall remain in effect and shall not terminate for such period as the Housing Project is subject to a Mortgage Loan and remains subject to the income and rent restrictions of the LIHTC Program.

Section 13. 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 a 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 14. Effective Date.

This ordinance shall become effective on \_\_\_\_\_.

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TOWNSHIP CLERK

ADOPTED:     (insert date of adoption)

EFFECTIVE:     (insert date ordinance becomes effective)