

PART II - CODE OF ORDINANCES

Chapter 70 TAXATION

Chapter 70 TAXATION [\[1\]](#)

[Sec. 70-1. State tax exemption for certain residential projects not applicable within city; amount of payment in lieu of taxes for exempted projects.](#)

Sec. 70-1. State tax exemption for certain residential projects not applicable within city; amount of payment in lieu of taxes for exempted projects.

- (a) *General denial of exemption.* The exemption from ad valorem property taxes provided by section 15a of Public Act No. 346 of 1966 (MCL 125.1415a) shall not apply to all or any class of housing projects within the city boundaries except as provided in this section. This denial of exemption is made pursuant to subsection 5 of such section.
- (b) *Limited exemption granted.* A limited exemption, only if authorized by the Act, is hereby granted, limited however to the projects described and authorized by this section and further having a signed contract with the city pursuant to this section. No other residential project, even if authorized by the Act, shall be entitled to an exemption.

- (c) *Definitions.* In this section:

Act means the State Housing Development Authority Act of 1966 (MCL 125.1411 et seq.).

Authority means the state housing development authority.

Contract rents means all rents in the housing project. Contract rents includes the rental amounts to be currently charged for units in the housing project, whether a unit is vacant or not, and whether or not the rent is actually paid. Contract rents also includes the rentals to be paid for additional facilities by tenants, such as carports or garages, and further includes miscellaneous income, such as income from vending machines or laundry equipment.

Elderly persons means persons aged 55 or older who are of low or moderate income and who would qualify by the rules, standards or practices of the authority for residency in projects aided by the authority. This definition does not expand the projects which are eligible under this section.

Housing project means a residential facility consisting of rental units offered to the following persons. It does not mean the portion of any facility which is not so occupied.

- (1) Elderly persons as defined in this section.
- (2) Low income persons and families as defined by the authority.

HUD means the United States Department of Housing and Urban Development.

Low income persons and families includes all low income persons and families included in the definitions found at section 15a(7) of the Act (MCL 125.1415a(7)).

Mortgage loan means a loan made by the authority or HUD to the sponsor for the construction and permanent financing of a housing project as defined by this section.

Service charge. The terms "service charge" and "payment in lieu of taxes" mean the same thing.

Sponsor means a developer of a housing project. The term "sponsor" includes an applicant for exemption under this section.

Utilities means public water, public sanitary sewer, gas or electric service. Utilities do not include cable or other television services, telephone or communication utilities, or solid waste services.

PART II - CODE OF ORDINANCES

Chapter 70 TAXATION

- (d) *Ownership entities recognized.* No housing project shall be eligible for an exemption under this section unless it is owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, or limited dividend housing association limited partnership, as described in section 15a of the Act (MCL 125.1415a).
- (e) *Housing projects eligible.* Eligible housing projects are housing projects financed with a federally-aided or authority-aided mortgage or advance or grant from the authority.
- (f) *Payment in lieu of taxes; amount; standards for determination.* The payments in lieu of taxes to be made by housing projects exempt from ad valorem taxes under this section are hereby established by the city pursuant to section 15a of the Act (MCL 125.1415a), without regard to the amounts otherwise set forth in the said section of the Act. The service charge to be paid in lieu of taxes by any housing project exempt under this section shall be determined as follows:
- (1) *Amount.* The service charge shall be in an amount not less than four percent and not more than 20 percent of the contract rents charged for the total of all units in the (exempt) housing project, whether the units are occupied or not and whether or not the rents are paid. In no event shall the service charge exceed the ad valorem real property taxes which would be paid for the housing project if it were not exempt.
 - (2) *Standards for determining amount of payment in lieu of taxes.* In determining the amount of service charge (not less than the minimum) which will be paid the city for a housing project exempt under this section, the following standards shall guide the city. All criteria which apply shall be considered to arrive at the service charge:
 - a. If the housing project or a substantial part thereof is located in a rehabilitated structure, for that portion of the project found in the rehabilitated structure the city shall establish a lower service charge.
 - b. If the housing project is located in an area of the city which is part of a tax increment finance district, and removes taxable property from the tax roll, the city shall establish a higher service charge.
 - c. The city shall consider the number of exempt units as compared to non-exempt units which are attached or contiguous to the housing project, but which are developed simultaneously with it by the same developer. To the extent that non-exempt units, including units calling for market rents, are included in the development, the city shall consider lowering the rate of the service charge on the exempt units.
 - d. If the housing project is proximate to non-subsidized and non-exempt housing which is not part of any project for which the developer of the exempt housing project is responsible, the city shall establish a higher service charge.
 - e. If the housing project is eligible for other property tax abatements or reductions of any kind, or municipal benefits not generally available to residential properties, the city shall establish a higher service charge.
 - f. If the housing project results in an increase in the need for public services such as water or sewer extensions, public transportation services, additional snow plowing, or police and fire services, or increased school populations, the city shall establish a higher service charge.
 - g. If the city determines that the housing project will result in significantly increased traffic generation or street or highway safety problems, the city shall establish a higher service charge.
 - (3) *Property or unit becoming ineligible.* If any residential unit is found to be occupied by persons who are not eligible to occupy exempt units under this section, the service charge for that unit, prorated, shall equal the general property taxes which would be payable (pro-rata) for that unit. If the city determines that more than 50 percent of the units in the housing project are occupied by such ineligible persons, then the entire housing project shall be immediately liable for a service

PART II - CODE OF ORDINANCES

Chapter 70 TAXATION

charge in an amount equal to the ad valorem property taxes which would otherwise be charged by tax bills normally issued in the year of the city's determination.

- (g) *Term of exemption.* The exemption term shall begin on the tax day of the year in which a final certificate of compliance or occupancy is issued by the city, therefore affecting the taxes due in the following year, and shall terminate on the happening of any of the following:
 - (1) At such time as the facility is no longer being used for elderly and/or low income housing to the extent as when established.
 - (2) Any violation or default under this section if not cured within 30 days after notice.
 - (3) The day falling 35 years after the effective date of the contract for the exemption required by this section, or the period determined by the contract, whichever is shorter.
- (h) *Service charge constitutes lien on property.* The service charge shall constitute a lien on the housing project property and improvements, effective at the same times and enforceable in the same manner as general property taxes.
- (i) *Collection of service charge.* The service charge as determined by this section shall be payable in the same manner as general property taxes, except that the annual payment shall be paid on or before July 1 of each year during which the exemption is in effect. The entire tax collection procedure provided by the General Property Tax Act (MCL 211.1 et seq.) shall be effective and utilized with respect to such payment, including, but not limited to, the provisions providing for interest and penalties on late payments, return of delinquent taxes, tax liens, and the sale of lands for delinquent taxes. In the event of a delinquency in the payment in lieu of taxes, the city shall issue a tax bill for the premises and include the required payment as a delinquent tax.
- (j) *Requirement to file information; default in payment; violations; loss of exemption.* The sponsor or owner shall file annually with the city treasurer a copy of the audit provided to the authority within 120 days after December 31 of each year. Failure to timely file such statement, the filing of an inaccurate statement, any misrepresentation in the amount of rents, or the failure to timely pay any service charge shall be considered violations of this section, and the commission of any one violation shall result in the permanent, immediate loss of the exemption for the current year and thereafter.
- (k) *Service fees and special assessments.* Except as otherwise provided by law, a housing project otherwise exempt under this section shall not be exempt from special assessments or service fees or charges levied or charged by the city.
- (l) *Contract requirement.* Except for housing projects previously determined to be exempt prior to July 3, 2000, each housing project which is exempt under this section must sign an agreement with the city by which the exemption set forth in this section is granted, and further providing for the payment in lieu of taxes, consenting to the provisions of this section and recognizing the conditions whereby exemption may be lost. The city may require any reasonable conditions in such contract, including but not limited to such matters as limitations on the years for which the exemption may be continued, requirements for completing the project within a time certain, requirements for completing non-exempt units or facilities and time limits for completion, as well as the number of such units. Each contract shall have a complete and final floor plan attached (subject only to insubstantial amendment by as-built drawings), which shall govern the determination of the payment in lieu of taxes as appropriate under this section. No exemption may be granted unless and until the contract is completed, approved by the city council and signed.
- (m) *Denial of application.* The city is not required by this section to grant an application which may qualify under this section. The city may deny an application in its sole discretion. In determining whether to deny a project, the city may use, but is not limited to, the following standards. The city would deny a project for exemption if the project applied for:
 - (1) Constitutes a development which diverts, subverts, alters or is contrary to the master plan of the city;

PART II - CODE OF ORDINANCES

Chapter 70 TAXATION

- (2) Fails to contribute to the improvement of neighborhoods in the city;
 - (3) Concentrates exempt housing in one or more areas of the city;
 - (4) Adversely affects the property tax base of the city;
 - (5) Creates significant public burdens, such as traffic, public works or infrastructure, health, safety, school population or service capabilities;
 - (6) Results in the concentration of low income or elderly housing in a neighborhood or is contrary to the encouragement of economically diverse housing development;
 - (7) Is sponsored by a developer who fails to demonstrate acceptable financial, managerial or construction capabilities; or
 - (8) Results in a project or development which is harmful to the health, safety and welfare of the city.
- (n) *Effect on existing projects.* Housing projects which have been previously determined and treated as exempt pursuant to the Act under previous ordinances of the city shall continue their exempt status, and further shall continue the present payments to the city as presently determined. To the extent their present contracts do not conflict with this section, this section shall control their exemptions.

(Ord. No. 243, § 5.301, 7-3-2000)

FOOTNOTE(S):

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Charter reference— Taxation, § 7.01 et seq. [\(Back\)](#)

Cross reference— Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(3); any ordinance levying or imposing any special assessment saved from repeal, § 1-11(9); any ordinance levying, imposing or otherwise relating to taxes not codified in this Code saved from repeal, § 1-11(13); administration, ch. 2; finance, § 2-121 et seq.; businesses, ch. 22. [\(Back\)](#)

State Law reference— General Property Tax Act, MCL 211.1 et seq. [\(Back\)](#)