Date: July 21, 20226

To: City Commission

From: Tony McGhee

Subject: Introduction of Pilot Ordinance to Support Workforce Housing

Background

The proposed ordinance would establish a local framework for considering Payment in Lieu of Taxes, commonly referred to as PILOT, requests for new or rehabilitated workforce housing. Expanding the range of quality housing available at attainable price points supports employer recruitment and retention, allows more people to live near their jobs, strengthens neighborhoods, and keeps more household spending within the local economy.

Workforce housing addresses the gap between traditional income restricted housing and higher cost market rate housing. Households may earn too much for many conventional assistance programs while still finding new rents or home prices difficult to afford. Depending on household size and wages, this may include teachers, police officers, firefighters, health care workers, tradespeople, manufacturing employees, municipal employees, and workers in retail, hospitality, and other service industries.

Michigan law permits a municipality to exempt a qualifying workforce housing project from ordinary ad valorem property taxes and accept an annual service charge in their place. Replacing an uncertain future tax expense with a predictable charge for a defined period can help a project secure financing, manage operating costs, and maintain rents at attainable levels.

A PILOT is not a complete waiver of payment or an automatic entitlement. The owner pays an annual service charge, and the City Commission evaluates each request through a project specific resolution. The draft also requires a recorded restrictive covenant, Michigan State Housing Development Authority certification, and continuing compliance with affordability requirements.

The draft ordinance defines workforce housing as housing that is reasonably affordable to and occupied by households with total household income not greater than 120 percent of

Area Median Income. The limit changes by household size. Under the Michigan State Housing Development Authority Missing Middle limits effective May 1, 2026, the current Berrien County limits are:

Household Size	Maximum Annual Income	Approximate Monthly Gross Income
One person	$77,520	$6,460
Family of four	$110,640	$9,220

These are maximum household income limits, not required household earnings or guaranteed rent levels. The limits are updated annually and must be confirmed when a project applies.

The ordinance creates an application and review process, but does not approve any project by itself. Major provisions include:

- Eligibility for new construction or rehabilitation serving households at or below 120 percent of Area Median Income.
- A detailed application with site control, plans, unit and rent information, development experience, schedule, financial pro forma, and ten year cash flow projection.
- City Commission review of housing units, Master Plan consistency, neighborhood benefits, amenities, energy efficiency, zoning, and project viability.
- Approval only through a project specific resolution and recorded workforce housing covenant, generally for not more than 15 years under the draft.
- An annual service charge. The proposed ordinance uses the greater of the preconstruction tax or 10 percent of annual shelter rent for new construction, and the lesser of the pre-rehabilitation tax or 10 percent of annual shelter rent for rehabilitation, subject to statutory limits.
- Full taxation of nonworkforce portions of a project and an application fee to offset City review costs.

A project specific PILOT would reduce property tax collections compared with full ad valorem taxation during the approved period. The policy objective is to use a measured, temporary incentive when needed to make a desirable project feasible. The practical comparison may be between a PILOT supported development and a project that is delayed, reduced, or not built without the incentive.

Project specific review preserves the Commission's ability to consider the incentive amount and duration, units created, demonstrated financial need, community benefit, and effect on taxing unit revenues. No exemption would occur without separate Commission action and state certification.

Recommendation

Staff recommends introduction of the Workforce Housing PILOT Ordinance for first reading. It would add an important housing and economic development tool while preserving project by project review and Commission discretion. The City Attorney should complete technical and editorial review before the ordinance returns for second reading and possible adoption.

Attachment A

ORDINANCE NO. ____

An ordinance to provide for approval of an exemption from ad valorem property taxes for housing being developed or rehabilitated for workforce housing for persons and families whose household income is not greater than 120% of area median income, as authorized by provisions of the State Housing Development Authority Act of 1966, Public Act 346 of 1966, as amended, MCL 125.1401, et seq.

WORKFORCE HOUSING PILOT ORDINANCE

IS HEREBY ORDAINED BY THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN:

SECTION 1. <u>Title</u>

This Ordinance shall be known and cited as the "City of Buchanan Workforce Housing PILOT Ordinance."

SECTION 2. <u>Preamble</u>

It is a proper public purpose for the City of Buchanan ("City") to encourage the development or rehabilitation of workforce housing for persons and families whose household income is not greater than 120% of area median income by exempting such housing from all ad valorem property taxes imposed by any taxing jurisdiction and providing for payment of an annual service charge for public services in lieu of all such taxes, known as Payment in lieu of taxes ("PILOT"). A PILOT, or service charge payment in lieu of taxes, is an effective means of incentivizing the construction of workforce house. A stable and predictable service charge paid in lieu of all ad valorem property taxes for a fixed period is essential to the determination of the economic feasibility of workforce housing projects developed or rehabilitated in reliance on such tax exemption. City of Buchanan is authorized by section 15a of Public Act 346 of 1966 ("Act"), as amended, MCL 125.1415a, to establish, or change by any amount it chooses, the service charge to be paid in lieu of all ad valorem taxes in accordance with section 15a with respect to new or rehabilitated workforce housing, but not an amount that exceeds the taxes that would be paid but for this authorization or the other limitations imposed by that section. Because workforce housing for individuals and families whose household income is not greater than 120% of area median income is a public necessity, and because the City of Buchanan will be benefited and improved by such housing, encouraging the same through an ad valorem property tax exemption is a valid public purpose, this ordinance is enacted.

SECTION 3. Definitions

(A) "Additional Amount" means an amount equal to the difference between the following:

(1) the millage rate levied for operating purposes by the County multiplied by the current Taxable Value of a workforce housing project for which a PILOT Resolution has been adopted, and

(2) the amount of the annual service charge paid in lieu of ad valorem property taxes by the housing project under subsection (4)(C) that is distributed to the County pursuant to MCL 125.1415a(5).

(B) "Annual Shelter Rent" means the total collections during an agreed annual period from or paid on behalf of the occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants and paid for by the housing project.

(C) "Area Median Income" means the median for the area in which City is located, as determined under the United States Housing Act of 1937, 42 U.S.C. § 1437, et seq.

(D) "Housing project" means either: a residential real property developed or to be developed pursuant to or receiving benefits provided under the Act or this Ordinance; or a specific work or improvement either for rental or for subsequent sale to an individual purchaser undertaken by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, pursuant to or receiving benefits under the Act or this Ordinance to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements.

(E) "Sponsor" means any person or entity applying for a workforce housing exemption under this Ordinance, and includes any person or entity who subsequently owns the housing project.

(F) "Authority" means the Michigan State Housing Development Authority.

(G) "Restrictive Covenant" means a recorded agreement between Sponsor and the City of Buchanan running with the land that restricts the use of the housing project to workforce housing, as defined in this Ordinance, for a period not to exceed 15 years, or such greater or lesser period of time as may be authorized by state law and as may be required by the PILOT Resolution.

(H) "County" means the County of Berrien

(I) "PILOT Resolution" means a project-specific resolution adopted by the City Commission that approves a housing project for exemption under this Ordinance.

(J) "Taxable Value" means taxable value as calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(K) "Workforce housing" means rental units or other housing options that are reasonably affordable to, and occupied by, a household whose total household income is not greater than 120% of the area median income published by the United States Department of Housing and Urban Development.

SECTION 4. **Authorization and Establishment of Workforce Housing Exemption.**

(A) The class of housing projects to which the tax exemption shall apply and for which a service charge may be paid in lieu of all ad valorem property taxes are housing projects being developed or rehabilitated for workforce housing.

(B) Subject to the recording of a Restrictive Covenant, workforce housing and the property on which such housing is or will be located shall be exempt from all ad valorem property taxes as of December 31 of the year in which construction or rehabilitation commences. Construction must start within [one] year of the date of the Authority's notification of exemption or such longer period of time as may be provided by the PILOT Resolution.

(1) Commencement of construction began within one year of the date of the Authority's notification of exemption or such longer period of time as may be provided by the PILOT Resolution;

(2) The Restrictive Covenant instrument required by the Act and this Ordinance has been accepted, approved, and recorded by the City within a year of the commencement of construction; and

(3) The City has received a certified notification of exemption from the Authority.

(4) If any of these have not occurred, an otherwise approved PILOT Resolution for exemption shall automatically be null and void.

(C) City will accept payment of an annual service charge in lieu of all ad valorem property taxes for public services from the owner of a housing project for which the City has received a certified notification of exemption from the Authority in accordance with the following:

a. Subject to subsections (B), (D), (E) and (F), for a new construction project, an amount that is the greater of the tax on the property on which the project is located for the tax year proceeding the date on which the construction is commenced or 10% of the Annual Shelter Rent obtained from the project.

b. Subject to subsections (B), (D), (E) and (F), for a rehabilitation project, an amount that is the lesser of the tax on the property on which the project is located for the tax year proceeding the date on which rehabilitation is commenced or 10% of the Annual Shelter Rent obtained from the project.

c. The service charge paid in lieu of taxes shall not exceed the amount in ad valorem taxes that the Sponsor would have otherwise paid if the workforce housing project were not tax exempt.

(D) Notwithstanding subsection (C), the service charge paid each year in lieu of taxes for that part of a workforce housing project that is tax exempt under this Ordinance but not used for workforce housing must be equal to the full amount of the taxes that would be paid on that portion of the project as if the project were not tax exempt. The owner of the project shall allocate the benefits of any tax exemption granted pursuant to this Ordinance exclusively to workforce housing or to the maintenance and preservation of the housing project as a safe, decent, and sanitary workforce housing.

(E) The annual service charge under subsection (C) for a workforce housing project for which a PILOT Resolution has been adopted must be increased by the Additional Amount if both of the following requirements are met:

  (1) Not later than 45 days after the county treasurer's receipt of the certified notification of exemption, the County Board of Commissioners passes a resolution, by majority vote, that provides that the Additional Amount must be paid.

  (2) The approval of the resolution described in subparagraph (1) is in accordance with an ordinance or resolution adopted by the County Board of Commissioners establishing the factors to be considered when assessing whether the Additional Amount must be paid.

SECTION 5. <u>Workforce Housing Exemption Application, Review and Approval Process</u>

(A) The Sponsor of a workforce housing project must own the property that is the subject of the application or must be the purchaser under a purchase or option agreement or otherwise demonstrate it has control over the property. The property that is the subject of the application must be zoned for the intended use at the time of application.

(B) Prior to applying for a workforce housing exemption, the Sponsor shall submit a written proposed workforce housing project plan to the City Manager. The plan shall include at a minimum: the legal description and survey of the proposed exempt property, proof of ownership interest or control, a site plan, a description of the Sponsor's organizational structure and development experience, a narrative describing the scope of the workforce housing project, including location, number and type of units, typical floor plans and exterior elevations, the targeted median income and proposed rent limits, a schedule with projected milestones, a development income and expense pro forma (including the estimated Annual Shelter Rents), a ten-year cash flow projection, and additional or supplemental information as the City administration may request or require.

(C) The Sponsor shall submit its request for a workforce housing exemption using the form provided by City Assessor and including the information identified in subsection (B). The fully completed form, and any supplements thereto, shall be filed with the City Clerk along with the administrative review fee for workforce housing PILOTs, as established by City Council resolution.

(D) If a complete application is received no less than 30 days prior to the next regularly scheduled City Commission meeting, the City Clerk will place the request on the agenda of the next regularly scheduled meeting. If the application is received less than 30 days prior to the next regularly scheduled City Commission meeting, the application shall be placed on the agenda of the regular meeting that follows the next regularly scheduled meeting or the agenda for a special meeting scheduled by the City Commission at the request of the Sponsor.

(E) When reviewing an application for a workforce housing exemption, the decision to approve or deny the request shall be guided by the City Commission's consideration of the following factors:

  (1) Whether the workforce housing project will increase the number of available workforce housing units in the City.

  (2) Whether the workforce housing project will reduce the functional obsolescence of an existing building or housing unit(s).

  (3) Whether the workforce housing project is likely to encourage expansion of the population of the City.

  (4) Whether the location of the workforce housing project is consistent with the goals and objectives of the City's Master Plan.

  (5) Whether the development or rehabilitation of the workforce housing project requires zoning variances or results in the continuation of a nonconforming use.

  (6) Whether the workforce housing project will include a level of amenities desired by or appropriate for the community.

  (7) Whether the workforce housing project will add attractive, viable housing units to the community.

  (8) Whether the workforce housing project incorporates green technologies or energy-efficient components.

(F) Approval of an exemption for a workforce housing project requires passage of a PILOT Resolution by a majority vote of the City Council/Village Council/Township Board that includes the findings with respect to the standards of subsection (E) above.

(G) If the workforce housing exemption application is approved, the City Clerk will deliver to the Sponsor a certified copy of the resolution approving the application.

(H) To defray the administrative cost of processing an application for a workforce housing exemption, the City Commission shall include a workforce housing application fee in its annually adopted fee schedule.

SECTION 6. <u>Authority Affidavit and Assessor Notification</u>

(A) Following adoption of the PILOT Resolution, the Sponsor must submit an affidavit to the Authority in the form required by the Authority for certification by the Authority that the project is eligible for the workforce housing exemption.

(B) Upon receipt of notification from the Authority that the project is eligible for a workforce housing exemption, the Sponsor or the Authority must file the certified notification of exemption with the City Assessor before November 1 of the year preceding the tax year in which the exemption is to effective.

(C) Not later than 5 business days after receipt of the certified notification of exemption, the assessor shall provide a copy of the certified notification of exemption to the County treasurer.

SECTION 7. <u>Payment of PILOT</u>

(A) No later than April 1st of each calendar year, or such other date provided for in the PILOT Resolution, Sponsor shall submit to the City Treasurer, Sponsor's budget for Annual Shelter Rent for the current calendar year and a copy of Sponsor's audited financial statements for the preceding calendar year, prepared in accordance with generally accepted auditing standards or, if Sponsor is not subject to an audit requirement, Sponsor's compiled financial statements for the preceding calendar year prepared in accordance with generally accepted accounting principles and certified by Sponsor. Within 30 days of receipt of the foregoing documents, the treasurer shall issue an invoice showing the PILOT payment due for the current year, which payment shall be due no later than June 20 of the calendar year.

(B) Except as otherwise provided in this Section and Section 4, any payments for public services under this Ordinance shall be distributed to the governmental units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The distribution to those governmental units shall be made as if the number of mills levied for local school district operating purposes were equal to the number of mills levied for the purposes in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, as amended, MCL 211.901 to 211.906, for the year for which the distribution is calculated. The amount of payments in lieu of taxes to be distributed to a local school district for operating purposes under this subsection must not be distributed to the local school district but instead must be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(C) Any PILOT payment or portion of PILOT payment remaining unpaid as of the due date shall bear interest at 1% per month and require payment of a 3% penalty fee. The collection of past due PILOT payments shall otherwise be in accordance with the provisions of Chapter 211 of the General Property Tax Act, Act 206 of 1893, as amended; MCL 211.44 et seq.

SECTION 8. Duration and Recorded Restrictive Covenant

(A) A workforce housing project approved for an exemption by a PILOT Resolution shall be encumbered by a valid and binding Restrictive Covenant recorded in the office of the register of deeds for the County of Berrien.

(B) The Restrictive Covenant shall acknowledge: (i) that the economic feasibility of the workforce housing project depends on the approval and continuing effect of the payment in lieu of all ad valorem taxes as approved by the PILOT resolution; (ii) the City agreement to accept payment of an annual service charge in lieu of all ad valorem taxes in consideration of the Sponsor's offer to construct or rehabilitate workforce housing; and (iii) the amount of the annual service charge to be paid for each operating year.

(C) The Restrictive Covenant shall provide: (a) for the reporting and monitoring of the Sponsor's compliance with the Restrictive Covenant, this Ordinance and the PILOT Resolution; (b) that the Restrictive Covenant is enforceable by City and any Tenants to be benefitted at law or in equity; (c) any additional remedies available to the City for non-compliance, including termination of the exemption and repayment of all prior years' tax savings under the workforce housing exemption after notice and hearing; and (d) that the Restrictive Covenant cannot be modified or terminated except in a written instrument executed by the Sponsor or then current owner and the City.

SECTION 9. Severability

The provisions of this Ordinance shall be deemed to be severable, and should any provision be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this Ordinance as a whole or provision of this Ordinance, other than the provision so declared to be unconstitutional or invalid.

SECTION 10. Inconsistent Ordinances

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent necessary to give this ordinance full force and effect.

SECTION 11. **Effective Date**

This Ordinance shall become effective fifteen (15) days after its adoption and publication as required by Section 7.4 of the City Charter.

MADE, PASSED, AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF BUCHANAN, BERRIEN COUNTY, MICHIGAN ON THE __ DAY OF 2026 AND IT WAS PUBLISHED IN THE BERRIEN COUNTY RECORD NEWSPAPER ON DAY__OF 2026

MARK WEEDON, MAYOR ______________________

KALLA LANGSTON, CITY CLERK____________________

CERTIFICATION, I hereby certify that the above is a true and complete copy of an ordinance adopted by the City Commission of the City of Buchanan, County of Berrien, State of Michigan, at a regular meeting held on the __day of 2026, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 as required by said act.

____

Kalla Langston-Weiss, City Clerk