

# memorandum

**DATE:** October 18, 2024

**TO:** Austin Colson, Community & Economic Development Director/DDA Director  
City of Lathrup Village

**FROM:** Jill Bahm & Eric Pietsch, Giffels Webster

**SUBJECT:** Payment in Lieu of Taxes (PILOT) – Proposed Draft Ordinance

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## Background

In conjunction with the Surnow Company's interest in redeveloping the Annie Lathrup School with housing, they have suggested the city explore an alternative taxation model to help offset costs associated with the rehabilitation of the historic school. They have drafted an ordinance for consideration. We offer the following additional background and policy guidance that may be helpful as the City Council considers its next steps. These are intended to help guide not only this project but serve as a policy guide/foundation for any future requests.

## Payment in Lieu of Taxes (PILOT)

In accordance with Senate Bill 432 of 2021, except as otherwise provided in this section, the following is exempt from all ad valorem property taxes imposed by this state or by any political subdivision, public body, or taxing district in which the project is located:

A housing project that is being developed or rehabilitated for workforce housing that is located in a municipality and is subject to a municipal ordinance that is adopted by the governing body of that municipality to approve a housing project for tax exemption under this subdivision. The approval or denial of a tax exemption under this subdivision must be in accordance with an ordinance or resolution concerning the selection of workforce housing projects that is adopted by the governing body.

## Overview

The City of Lathrup Village recognizes the need for providing fair market rental housing for a population where there is a shortage of supply. A PILOT (or Payment in Lieu of Taxes) is an effective incentive that helps remove barriers to the construction of new multi-family households. Authorized under the Michigan State Housing Development Authority Act of 1966, a PILOT agreement is a negotiable legal document that allows the owner to pay a defined percentage of net shelter rent (or total owner revenue) instead of the local property tax rate. This document outlines the objectives, timeline, and requirements for a residential housing development to be considered for a PILOT in the City of Lathrup Village.

## **Goals of the PILOT Policy**

The City of Lathrup Village's PILOT policy has the following objectives:

- Increase market rate, workforce housing opportunities for residents
- Provide for improved housing amenities for the community
- Reduce functional obsolescence of existing facilities, buildings, etc.
- Encourage expansion of the population of the Village Center District
- Encourage attractive, viable building sites
- Enhance the available economic development tools to attract and retain affordable housing development

## **Eligibility:**

1. The applicant must be a nonprofit housing corporation, consumer housing cooperative, limited dividend housing association limited partnership, limited dividend housing association limited liability company, or limited dividend housing corporation, and must be financed with a federally-aided or Michigan State Housing Development Authority (MSHDA) aided mortgage, advance, or grant.
2. To be eligible to apply for a PILOT, an applicant must own the property or have an option or other right to purchase the property under consideration.
3. Eligible projects shall provide housing units for rent or other 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. The incentive only applies to residential units and does not apply to the non-residential components of a development, such as common areas or building amenities.

## **Procedure**

1. **Mandatory Pre-Submittal Conference:** A meeting with the Community and Economic Development Director / DDA Director, City Administrator, City Attorney, City Planner, City Engineer, and City Treasurer must occur before submitting a PILOT application. This meeting is to acquaint all parties with the scope of the project and any related issues. Also, it serves to familiarize the applicant with the PILOT process.
2. **Submission of Application:** An application packet must be assembled and submitted based upon the requirements set forth in the Application Requirements section below.
3. **City Staff Review:** City staff will review the submitted application packet for completeness and will determine compatibility with the Lathrup Village Master Plan, Zoning Ordinance, and objectives of the City's PILOT program. After receiving the application, the City will either:
  - a. Forward the application to the City Council with a recommendation for their consideration, or
  - b. Send the application back to the applicant for additional information or clarification.

4. **City Council Review:** For applications forwarded to the City Council, the City's Community and Economic Development Director / DDA Director will forward the completed application packet and recommendation and will schedule the request as an agenda item. The City's Community and Economic Development Director / DDA Director will also prepare a proposed ordinance regarding the request for a PILOT.
5. **Approval:** If the project and PILOT application is approved by the City Council, the City Clerk will submit a certified copy of the resolution approving the PILOT to the applicant. Additionally, the Clerk's office will e-mail digital copies of the application packet and resolution approving the PILOT to the City Manager, Director of Community and Economic Development / DDA Director, City Attorney, City Planner, and City Engineer.
6. **Reporting to City Treasurer After PILOT Approval:** For the PILOT to remain in effect, annual statements of net shelter rents must be filed with the City Treasurer. The City Treasurer's Office shall verify the accuracy of payments and distribute them accordingly among taxing jurisdictions.

### **Application Requirements**

The applicant must supply all the following information in its PILOT proposal:

1. **Applicant and Guarantors:** Brief overview of applicant organization, including its corporate or partnership structure, and the name, address, email address, and telephone number of the applying entity. The proposal shall also include the name of the applying entity's representatives, financial guarantors of the project, and name of principals of those entities, addresses, emails, and telephone numbers.
2. **Background Information:** Description of the applicant's development experience (if any) and any other relevant information the City may need to consider while reviewing the application.
3. **The Proposed Project:** Describe the proposed project, including the following:
  - a. The location of the proposed project by street address and legal description
  - b. Project scope, including rental units broken down by bedrooms and estimated rents
  - c. Architectural renderings
  - d. Timeline with projected milestones
  - e. Brief narrative describing how the project is consistent with the Lathrup Village Master Plan and the City's Zoning Ordinance
  - f. Impact on City services such as public safety and utilities
  - g. Any other information needed to fully explain the project
4. **Development Team:** Name all of the following that will be involved with the Project (with mailing addresses, email addresses, and phone numbers):
  - a. Applicant (primary point of contact)
  - b. Architects and engineers
  - c. Construction project manager

- d. General contractor for project
  - e. Other professionals
5. Pro Formas: The applicant must provide a detailed development and operating pro forma. The development pro forma must outline the proposed hard, soft, and financing costs associated with the proposed development. It must also identify all sources of financing and terms including the applicant's equity, construction, permanent financing, and any government assistance. The detailed operating pro forma shall include all anticipated major revenues and expenses for the full term of the requested PILOT.

### **PILOT Rate**

In lieu of property taxes, the developer of a PILOT project shall be assessed a PILOT rate and municipal services fee. The PILOT rate is a defined percentage of net shelter rent (or total property owner revenue). The municipal services fee covers any shortfall in funds to service the site with essential public services. Depending on the project, a PILOT rate shall be set between 4 and 6 percent and supplemented by a municipal services fee which will typically be around 3 percent but may vary based on the specific recommendations of City departments such as public safety and engineering/DPW. The specific PILOT rate and municipal services fee shall be established on a case-by-case basis and negotiated between the City and the developer. The maximum service charge (consisting of the PILOT rate and municipal services fee) to be paid in lieu of property taxes shall never exceed the amount of property tax that would have been paid but for the project's PILOT eligibility.

### **PILOT Term**

The term of the PILOT shall be determined by the length of the developer's debt service.

### **Extension to Existing PILOT Development**

Extensions to existing PILOT agreements need to be considered on a case-by-case basis due to the limitations on the programs available for rehabilitation. As with all other tax incentive programs, the staff will consider the merits of each proposal following certain guidelines and make a recommendation to the City Council. In these instances, a less stringent method will be used in the review process. However, an extension will only be granted where the annual income to the city is increased. The staff recommends setting the following objectives and developing a PILOT application that features them:

Objectives:

- Investment in building and units
- Investment in outdoor site amenities
- Term extension less than 20 years
- Upgrade to visitability ADA standards
- Increase to the average AMI by a minimum of 10 percent since the original approval

### **Tax Abatement Application Fee**

The City Council has authorized the implementation of a non-refundable application fee for Payment in Lieu of Taxes applications. The fee is published in the city's fee schedule as adopted by resolution of the City Council and included on the application.

### **Notes**

1. The city encourages efficiency in land use and cost of services, and favors projects that use space most efficiently in compliance with the City's zoning ordinance within applicable zoning districts.
2. Green infrastructure is utilized to reduce impacts on stormwater infrastructure. Green infrastructure may include, but not be limited to green roof technology, rain gardens, permeable pavements, maintaining existing or increasing tree canopy.
3. Quality & Durability Definitions: Exterior construction shall be of durable materials (i.e. wood, composite, brick, concrete or steel siding). Efficiencies refers to energy efficiencies that meet Energy Star standards.
4. Placemaking promotes people's health, happiness, and well-being. Points are awarded based on the quality of improvements made to the common space surrounding the proposed development. Those improvements may include, but not be limited to improved sidewalk access, covered bike parking, and increased tree sizes.