

MEMO TO: Honorable Mayor and City Councilmembers

FROM: Jonathan Greene, City Manager

DATE: May 23rd, 2023

SUBJECT: Amendment to the City's Chapter 28 PILOT Ordinance

Recommendation: Approve an Ordinance amending Chapter 24, Taxation, of the Code of Ordinances by adding Article VIII, Sections 24-121 through 24-131 to provide for the approval of an exemption from ad valorem property taxes for housing being developed or rehabilitated for workforce housing under the authority of the State Housing Development Authority Act of 1966, Public Act 346 of 1966, as amended by MCL 125.1415a

Your consideration and concurrence is appreciated.

DEPARTMENTAL REPORT

MEMO TO: Honorable Mayor and City Council Members

FROM: Jonathan Greene, City Manager

DATE: Council Meeting May 23rd, 2023

RECOMMENDATION: Amendment to the City's Chapter 28 PILOT Ordinance

SUMMARY

It is a proper public purpose for the City of Jackson to provide for and encourage the development or rehabilitation of such housing by exempting workforce 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. A PILOT, or service charge payment of 10% of Shelter rents in lieu of taxes, is an effective means of incentivizing the construction of workforce housing. The City of Jackson is authorized by section 15a of Public Act 346 of 1966, as amended, MCL 125.1415a, to establish a service charge to be paid in lieu of taxes with respect to new or rehabilitated workforce housing in an amount it chooses, but not an amount that exceeds the taxes that would be paid but for this section. Workforce housing is also a public necessity, and as the City of Jackson will be benefited and improved by such housing, encouraging the same through ad valorem property tax exemption is a valid public purpose. Additionally, the stability and predictability of the service charge paid in lieu of all ad valorem property taxes during the periods as contemplated by this ordinance is essential to the determination of economic feasibility of workforce housing projects that are developed or rehabilitated in reliance on such tax exemption.

BUDGETARY CONSIDERATIONS

None

HISTORY, BACKGROUND and DISCUSSION

City Council recently approved a purchase agreement with Green Development Ventures, LLC (Allen Edwin Homes) dated March 23, 2023 for their purchase of up to 136 City lots for new construction of single family homes. This initiative is designed to bring infill housing throughout the City in strategically designated areas, with new home construction at an affordable rental price point. As part of this project, the City will seek to take advantage of recently adopted state legislation (PA 239 of 2022, MCL 125.1415a) that took effect on December 13, 2022. Related to the purchase agreement with Green Development Ventures, PA 239 amended the State Housing Development Authority Act to exempt a housing project that is being developed or rehabilitated for workforce housing and that is located in a municipality that approves the project from all ad valorem property taxes imposed by the State or by any political subdivision, public body, or taxing district of the State. The legislation further prescribes the amount of annual service charge (PILOT) that an owner of a project described above must pay in lieu of taxes; and requires the owner of the housing project to allocate the benefits of any tax exemption exclusively to income-qualifying individuals or families, workforce housing, or to the maintenance and preservation of the housing project.

Under PA 239, this exemption applies to a housing project that is subject to a municipal ordinance that is adopted by the City to approve a housing project for tax exemption. The approval or denial of a tax exemption must be in accordance with an ordinance or resolution concerning the selection of workforce housing projects that are adopted by the City. In accordance with paragraph five (5) of the purchase agreement, Green Development Ventures' exclusive right to purchase the lot(s) is subject to the due diligence period and *“the City’s full and final approval of a tax-exemption for the Lots in accordance with an Ordinance adopted under SB 432, codified at MCL 125.1415a, on terms acceptable to Purchaser.”*

In light of the foregoing, accompanying this Department Report is a proposed Workforce Housing PILOT Ordinance for first reading. The Ordinance is a legal requirement under PA 239 (Sec. 15a(1)(b)) to effectuate any future application of projects of this type for an ad valorem tax exemption. Unlike other City-approved PILOTS, this Ordinance will require a project-specific resolution to be subsequently adopted by City Council for project approval, and upon receipt and payment of the application by the developer and if the required ordinance criteria are met. The resolution which will further set forth the parameters of the PILOT on the specified properties, amount to be paid (which for a new construction project will be 10% of the annual shelter rents obtained from the project) consistent with the Ordinance requirements. Consistent with the PA 239, the Ordinance requires the exemption from taxation to remain in effect for no more than 15 years if the housing project remains subject to a covenant running with the land that restricts the use of the housing project to workforce housing.

City staff recommends approval of the accompanying Workforce Housing PILOT Ordinance for first reading.

POSITIONS

City staff recommends approval of the accompanying Workforce Housing PILOT Ordinance for first reading

ATTACHMENTS

ORDINANCE NO. ____

An Ordinance amending Chapter 24, Taxation, of the Code of Ordinances of the City of Jackson, Michigan by adding Article VIII, Sections 24-121 through 24-131 to provide for the approval of an exemption from ad valorem property taxes for housing being developed or rehabilitated for workforce housing under the authority of the State Housing Development Authority Act of 1966, Public Act 346 of 1966, as amended by MCL 125.1415a

WORKFORCE HOUSING PILOT ORDINANCE

THE CITY OF JACKSON, COUNTY OF JACKSON, STATE OF MICHIGAN, ORDAINS:

Sec. 24-121. Title. This Ordinance shall be known and cited as the "City of Jackson Workforce Housing PILOT Ordinance."

Sec. 24-122. Preamble.

It is a proper public purpose for the City of Jackson to provide for and encourage the development or rehabilitation of such housing by exempting workforce 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. A PILOT, or service charge payment in lieu of taxes, is an effective means of incentivizing the construction of workforce housing. The City of Jackson is authorized by section 15a of Public Act 346 of 1966, as amended, MCL 125.1415a, to establish a service charge to be paid in lieu of taxes with respect to new or rehabilitated workforce housing in an amount it chooses, but not an amount that exceeds the taxes that would be paid but for this section. Workforce housing is also a public necessity, and as the City of Jackson will be benefited and improved by such housing, encouraging the same through ad valorem property tax exemption is a valid public purpose. Additionally, the stability and predictability of the service charge paid in lieu of all ad valorem property taxes during the periods as contemplated by this ordinance is essential to the determination of economic feasibility of workforce housing projects that are developed or rehabilitated in reliance on such tax exemption.

Sec. 24-123. Definitions.

(A) "Area median income" means the median income for the area as determined under section 8 of the United States housing act of 1937, 42 USC 1437F, adjusted for family size.

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

(C) "Shelter Rent" means the rental or carrying charges established for occupancy in housing projects, exclusive of payments for taxes and charges for heat, light, water, cooking fuel, and other necessary utilities.

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

Sec. 24-124. Authorization and Establishment of Workforce Housing PILOT.

(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. “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.

(B) Workforce housing and the property on which such housing is or will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation. Construction must start within one year of the date of the Authority’s notification of exemption.

(C) In lieu of payment of ad valorem property taxes, the City of Jackson 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 having a certified notification of exemption in accordance with the following:

(1) Subject to subsections (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 Rents obtained from the project.

(2) Subject to subsections (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 Rents obtained from the project.

(3) The service charge paid in lieu of taxes shall not exceed the amount in ad valorem taxes that an owner would have otherwise paid if the workforce housing project were not tax exempt.

(D) Notwithstanding the provisions of MCL 125.1415a(3)(b) and 125.1415a(7) to the contrary, a contract shall be deemed effected between the City of Jackson and the owner of the workforce housing to provide a tax exemption and accept service charge payments in lieu of taxes as previously described by this section upon the adoption of a project-specific resolution by the Jackson City Council.

(E) 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.

(F) The annual service charge under subsection (C) for a workforce housing project that is tax exempt under this Ordinance 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 the exemption, the Jackson 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 Jackson County Board of Commissioners concerning the factors to be considered when assessing whether the additional amount must be paid.

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

(a) The millage rate levied for operating purposes by the county in which the housing project is located multiplied by the current taxable value of that housing project.

(b) 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 in which the housing project is located pursuant to MCL 125.1415a(5).

Sec. 24-125. Workforce Housing PILOT Application, Review and Approval Process.

(A) An applicant for a workforce PILOT must own the property that is the subject of the application or must be the purchaser under a purchase or option agreement. The property that is the subject of the application must be zoned for the use at the time of application.

(B) Prior to applying for a workforce housing PILOT, the applicant is encouraged to meet with the City Manager, Director of Community Development, Treasurer, Assessor and any other person as may be designated by the City Manager and present the proposed workforce housing project. The presentation may include a description of the applicant's organizational structure, describe the applicant's development experience, describe the scope of the workforce housing project, including location, number of units and types of units, and typical floor plans and exterior elevations, schedule with projected milestones, and estimated shelter rents.

(C) The applicant shall submit its request for a PILOT using the form provided by City Assessor and/or Community Development Department and include the information identified in subsection (B) above together with a zoning compliance letter.

(D) If a complete application is received no less than 20 days prior to the next regularly scheduled City Council meeting, the Jackson City Clerk will place the request on the agenda of the next regularly scheduled meeting. If the application is received less than 20 days prior to the next regularly scheduled City Council 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 Council at the request of the applicant.

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

- (1) Whether the PILOT will increase the number of available workforce housing units in the City.
- (2) Whether the PILOT will reduce the functional obsolescence of an existing building or housing unit(s).
- (3) Whether the PILOT is likely to encourage expansion of the population of City.
- (4) Whether the location of the workforce housing is consistent with the goals and objectives of the City of Jackson Master Plan.
- (5) Whether the development or rehabilitation of the workforce housing requires zoning variances and results in the continuation of a nonconforming use.
- (6) Whether the PILOT will result in the provision of housing amenities.
- (7) Whether the PILOT will facilitate provision of an attractive, viable housing units.

(F) Approval of a PILOT for workforce housing requires passage of a resolution of approval by a majority vote of the City Council that includes the findings with respect to the standards of subsection (E) above.

(G) If the PILOT application is approved, the City Clerk will deliver to the applicant a certified copy of the resolution approving the application.

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

Sec. 24-126. Authority Affidavit and Assessor Notification.

(A) Upon receipt of the certified PILOT approval resolution, the applicant 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 a PILOT.

(B) Upon receipt of notification from the Authority that the project is eligible for a PILOT, the applicant must file the notification of exemption with the City Assessor before November 1 of the year preceding the tax year in which the exemption is to begin.

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

Sec. 24-127. Payment of PILOT.

(A) The owner of the workforce housing shall remit the annual PILOT payment to the City Treasurer no later than February 14th. 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 PILOT payment shall be accompanied by an estimate of shelter rents for the current calendar year and a certified roll of shelter rents for the preceding calendar year.

(B) Except as otherwise provided in this section and section 24-124, 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 those purposes in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, 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.

Sec. 24-128. Duration.

The tax-exempt status of a housing project approved as workforce housing by resolution of the City Council shall be encumbered by a covenant running with the land that restricts the use of the housing project to workforce housing 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 approved by the PILOT resolution passed by majority vote of the City Council.

Sec. 24-129. 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.

Sec. 24-130. 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.

Sec. 24-131. Effective Date.

This Ordinance shall become effective thirty (30) days after final passage in accordance with the City Charter Sec. 9.10.

At a regular meeting held on _____, 2023, on motion made by _____ and supported by _____, this Ordinance was adopted on ____ __, 2023 by a ____ - ____ vote.

AYES:

NAYS:

ORDINANCE 2023-__ IS ENACTED.