

*****DRAFT Framework for City of Detroit Administrative Guidelines *****

This is a draft framework of guidelines that are required to be reviewed by the Law Department and other parties following adoption of the relevant ordinance. The framework below includes the sections and basic contents of guidelines that will be built out if and when an ordinance is adopted.

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Payment In Lieu of Taxes for Government-Aided, Fast Track and Workforce Housing Development Ordinance

Housing & Revitalization Department

October 2024

Project Types

- Government-Aided Housing Projects (GAHPs) are housing development projects that have a state or federally aided mortgage and be under an eligible ownership entity per MCL125.1415a (1)(a). PILOTs are tied to the entity.
- Fast-Track Housing Projects (FTHPs) are affordable housing development projects that meet one of two criteria. Pilots are tied to the parcel(s) associated with the project:
 - o Any projects with average affordability of restricted units up to 80% of Area Median Income (AMI) or below.
 - o Projects with average affordability of restricted units up to 120% of AMI that are long-term vacant rehabilitations.
- Standard Workforce Housing Projects (SWHPs) are those housing development projects with average affordability of restricted units between 81- 120% AMI that are occupied rehabilitations or new construction (any project type other than long-term vacant rehabilitations).

Eligibility

- All projects must contain at minimum 4+ housing units
- Rehabilitation projects must meet investment thresholds
- All projects must obtain Certificate of Compliance from the Buildings, Safety Engineering & Environmental Department (BSEED)
- GAHPs must have a state or federally aided mortgage and be under an eligible ownership entity per MCL125.1415a (1)(a). PILOTs are tied to the entity.
- FTHPs and SWHPs must enter into and remain in compliance with an affordability agreement with the City.
- Entity with majority ownership / controlling interest in the project ownership entity must not be in default with the City per the City Charter. Default includes but is not limited to outstanding blight tickets or past due property tax payments, for parcels in which they

have a controlling interest in the ownership entity; and defaults on City loans and/or breach of contract with the City with entities in which they have a controlling interest.

Vacant Projects

- Projects that have been confirmed vacant for 5 or more years are eligible to apply as vacant rehabilitations under the FTHP definition for a reduced service charge. This also applies to non-residential structures that are being utilized in adaptive reuse projects.

Rehabilitation Thresholds

- Initial rehabilitation threshold of \$15,000 investment per unit for projects applying for first tax incentive through the City
- Reinvestment threshold of \$6,000 per unit for projects with previous PILOT or other tax incentives granted by the City. Reinvestment must be demonstrated through Certificate of Acceptance for permitted work valued over \$6,000/unit and/or third-party cost certifications.

Limit on number PILOT approvals

- For rehabilitation projects, the Housing & Revitalization Department (HRD) will approve FTHPs and SWHPs that meet program requirements up to 1,500 units within a calendar year due to concerns about fiscal impact.
- There is no limit on approvals for new construction projects.
- There is no limit on approvals for GAHP PILOTs.

Timing to Apply

- GAHP PILOT:
 - o New PILOT Applications: Apply within six months after submitting an application for construction permits.
 - o Renewal of PILOT: Apply at any time prior to expiration of initial PILOT, provided project meets renewal eligibility criteria, including the \$6,000 per unit investment threshold.
 - o Existing GAHPs with PILOTs approved prior to enactment of this ordinance may apply to convert to rates under this ordinance by demonstrating financial need through three years of audited financials.
 - o Existing PILOTs will be extinguished if the property becomes ineligible or if a new PILOT is established under a new ownership entity.
- FTHP and SWHP PILOT:
 - o New PILOT application: For one year following the effective date of the ordinance, any project meeting the investment threshold and having a construction permit application submitted or final Certificate of Occupancy obtained after December 13, 2022, can apply for a new SWHP or FTHP PILOT. After this one-year period, apply within six months of submitting construction permit applications.
 - o Renewal: Apply any time prior to expiration of initial PILOT or other tax incentive, provided project meets the renewal

eligibility criteria, including the \$6,000 per-unit investment threshold and other compliance requirements.

**Application
Content**

- Project overview including construction type, programming, unit summary (size, affordability levels), parcel(s)
- Type of PILOT requested: GAHP, FTHP, or SWHP
- Property Type (New construction, Occupied Rehabilitation, or Vacant Rehabilitation)
- Unit schedule by affordability level, unit type (# bedrooms) & unit size
- Development team and narrative
- Detailed scope of work and/or trade payment breakdown
- Construction Schedule including target occupancy month/year
- Documentation of readiness to proceed, including:
 - o Proof of site control (deed, purchase agreement, development agreement, lease agreement and/or purchase option)
 - o Project financials including rent schedule, operating proforma, 15-year cash flow, construction & permanent sources and uses
 - o Existing rent roll (if occupied)
 - o *For GAHPs and FTHPs only:* Letters of Intent or Proof of Funds for funding sources listed in project sources and uses (ie, equity statements, letters of intent, grant awards)
 - o Evidence of Site Plan Approval (if applicable)
- Non-Default Status
 - o Identify entity with majority ownership/controlling interest
 - o Listing of all properties in which the above has majority/controlling interest
 - o Affidavit of Good Standing with City of Detroit
 - o Blight Clearance through the Department of Administrative Hearings

**Approval
Process**

- *GAHP Only:* Developer secures financing needed / establishes entity to qualify
- Developer submits application to HRD through online portal (Neighborly, as of 2025)
- HRD reviews for readiness to proceed; good standing; and Tenant Retention Plan (TRP) if occupied
- *SWHP only:* HRD underwrites and recommends PILOT rate; Assessor confirms
- *FTHP and SWHP only:* Affordability agreement drafted and executed
- HRD provides administrative approval letter
- *SWHP only, OR non-conforming rate:* Detroit City Council approval
- Developer submits exemption affidavit to MSHDA
- *FTHP and SWHP only:* City Assessor provides County Treasurer certified copy of exemption; Wayne County confirms opt in by majority vote

- Developer completes project & receives Certificate of Occupancy (if new construction or vacant rehab) OR Certificate of Acceptance AND Certificate of Compliance (if occupied) from BSEED
- Developer provides Assessor with:
 - a. *FTHP and SWHP only*: Executed affordability agreement
 - b. MSHDA exemption
 - c. BSEED certifications
 - d. HRD certification of adherence to TRP, if applicable
- Assessor adds project to PILOT roll by November 1 of the year preceding PILOT activation

PILOT Term

- GAHP PILOTs: As determined by Assessor no more than 50 years.
 - FTHP and SWHP: Term of 15 years, renewable up to 45 years if project:
 - o Meets reinvestment threshold
 - o Maintains affordability restriction
 - o Continues to maintain eligibility through Certificates of Compliance and no City defaults
- After 45 years, project may reapply for a new PILOT.

PILOT Rates & Payment Calculation

- PILOT rate is based on the average affordability of restricted units at the project, calculated as a weighted average of the rate for each income level based on the affordability restriction in place. PILOT rates will then be applied as follows:

Average Affordability	Service Charge Rate- Standard	Service Charge Rate- Vacant Rehab
81-120% AMI (WHP)	7%*	3.5%
61-80% AMI	4%	2%
<=60% AMI	1%	0.5%

*Subject to HRD underwriting and Council approval.

- PILOT Basis: PILOT rates are applied to basis of either Net Shelter Rents (NSR) or Gross Potential Rents (GPR) as outlined below.
 - For GAHP PILOTs: Rate applied to NSR, which are calculated as gross potential rent minus vacancy loss and owner-paid utilities. NSR are verified through audited financial statements submitted to and reviewed by the Assessor.
 - FTHP and SWHP PILOTs: Rate applied to GPR by default. Owner may opt in to NSR basis by agreeing to submit audited financials to demonstrate vacancy loss and owner-paid utilities.
- Non-Exempt Uses: For all PILOT types, non-exempt uses within the property are those that are not determined by MSHDA or the City to be necessary for the project per the definition of “housing project” in the ordinance. This can also pertain to unrestricted rental units. The non-exempt portion of the property is calculated by the percentage of rentable Square Footage (SF) of the building used for non-exempt

purposes. The ad valorem millage rate is then applied to this percentage, generating the non-exempt payment.

- Total PILOT Payment will be (PILOT rate x PILOT basis) + any non-exempt payment, if applicable.
- If a development project contains a commercial or other condo on a separate parcel, the owner can seek a different tax incentive on that condo.

Tenant Retention Standards

- Occupied rehabilitations must comply with the City of Detroit’s Tenant Retention Standards to prevent displacement of existing residents. Key requirements of these standards include:
 - Initial rent increases of no more than 5% for original occupants OR initial lease rent set at no greater than 30% of household income
 - Ongoing rent increases of no more than 2%
 - 90-day and 30-day notices around construction and/or temporary relocation if applicable
 - Where temporary relocation is required:
 - Right to return
 - Offer of relocation assistance
 - Payment of reasonable moving expenses for all low-income, elderly and/or disabled residents
- For GAHPs: Compliance with Uniform Relocation Act (URA) if applicable

Affordability Agreement

FTHPs and SWHPs must enter into an Affordability Agreement with the City. Key terms include:

- Project owner must agree to post project on Detroit Home Connect with information on units available and how to apply
- Affordable Units must be generally comparable in design, unit type, size, and overall quality of construction to the market-rate rental units in the Project. Affordable Units shall be distributed throughout the buildings and not concentrated on specific floors or wings.
- Tenants must have written lease agreements with minimum 6-month term
- Notification to the City of transfer of ownership or change in ownership structure of the project’s legal entity
- Specific cure periods, penalties and other remedies for breach of agreement

Accompanying the Agreement will be an Affordable Housing Restriction detailing the agreed upon affordability distribution.

Monitoring

- Assessor reviews projects annually for:
 - Affordability compliance, collected from HRD
 - Active Certificate of Compliance, collected from BSEED
 - PILOT payment status
 - Check for other defaults (active litigation)

- GAHP PILOTs only: Recertification of exemption status from MSHDA
- HRD monitors for rent & income compliance through third party compliance monitor (National Consulting Services as of 2024) to collect annual rent rolls and income certification for all new occupants of restricted units

Noncompliance & Remedies

Project owner will be notified in writing of any compliance defect and be provided with a timeline to cure based on existing affordability agreement as well as type and severity of issue.

Types of noncompliance & remedies:

- Rent & Income: Noncompliance letter sent to project owner citing cure requirements with reference to affordability agreement:
 - i. If the project contains unrestricted units, next vacancy in unrestricted unit(s) must be leased at the rate of the noncompliant unit(s) to an income qualified resident.
 - ii. If the project does not contain unrestricted units, next vacancy must be offered as the lower of what is needed to maintain average AMI cited in affordability agreement, or a 30% AMI unit.
 - iii. Owner begins monthly rent roll reporting until cured and for 12 months following.
 - iv. If noncompliance is not cured as listed in noncompliance letter next PILOT payment invoiced will include additional charge equivalent to ad valorem share for any noncompliant units, per 44-4-114 (f) and (g)
 - v. If project maintains noncompliant units for 2 years in a row OR more than 25% of units are noncompliant, 90-day final warning letter will be sent to project owner with 90- day period to cure or risk removal of PILOT.
- Lapsed Certificate of Compliance: Can be corrected through a plan with BSEED, which may grant extensions for extenuating circumstances such as unavailable repair parts. Assessor sends letter with 60-day period to either cure or enter into agreement to correct deficiencies with BSEED.
 - If above not met within 60 days OR BSEED determines project has failed to correct deficiencies per agreement, Assessor sends final warning notice providing 30 days to meet requirements or risk removal from PILOT.
- Past due payments: Penalties will apply for past due payments as determined by the Office of the Assessor and terms of the affordability agreement.

- *GAHP only*: In cases of ownership changes or loss of state- or federally- assisted debt, MSHDA notifies the Assessor. Owner is notified and given a reasonable period to rectify the issue.

Non-compliance of the above may result in penalties. Penalties are payable to the Detroit Affordable Housing Development and Preservation Fund, commonly known as the Trust Fund.

If a property loses PILOT status through failure to remedy compliance defects, the tax payments will be adjusted to reflect the taxable value of the property.

Adjustments to PILOT rate and affordability

- A project owner may apply to HRD for adjustment to PILOT rate and affordability agreement. Application must include documentation to demonstrate financial need.
- Any adjustment to a SWHP’s affordability agreement or adjustments to a FHTP’s agreement that would increase average rent restriction to over 80% of AMI requires approval by City Council.
- If approved, owner will legally modify affordability agreement. Tenant retention standards will apply to all occupied units from time of application.

Renewal

- FTHP and SWHP PILOTs are eligible for by-right 15-year renewals successive to the initial 15 years up to 45 total years provided that they:
 - o Have an affordability restriction in place or modify the restriction to last the duration of the PILOT renewal
 - o Meet the reinvestment threshold as defined by these guidelines at time of application
 - o Maintain compliance per program requirements
- GAHPs can apply for a new PILOT under a new ownership entity if recapitalizing.

Reporting Requirements

- HRD will report program information in the following manner:
 - o Notification at approval: HRD will notify to City Council of individual projects approved within seven days of administrative approval by HRD, including project location, name of development, development entity, number of units, unit affordability summary, and project type.
 - o Annual reporting: Cumulative program data will be published in an annual report to Mayor Council, including:
 - o Number of administrative approvals granted
 - o Number of new restricted affordable units under affordability agreements, including a breakdown of units at various levels of affordability by AMI

- Total number of completed affordable units under affordability agreements placed in service under PILOT, including a breakdown of units at various levels of affordability by AMI
- Compliance summary on number of households verified at various levels of affordability by AMI
- Annual fiscal impact

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