

AGENDA REPORT

TO: Mayor & City Commissioners
FROM: Jeremy Howard, City Manager
DATE: September 28, 2023
RE: First Reading-Proposed PILOT Ordinance 2023-003 – Clarendon Glen Apartments

For the Agenda of October 2, 2023

Background. Mr. Chris Austin of CRA Development, LLC purchases, re-develops, and then manages Rural Development and other affordable housing developments. Mr. Austin contacted the city regarding the recent purchase of Clarendon Glen Apartments (*see att'd letter*).

Mr. Austin's vision is to renovate the property, spending nearly \$1M on improvements, by using the Low-Income Housing Tax Credit Program (LIHTC). This is a federal program administered by the Michigan State Housing Development Authority (MSHDA). The tax credit program is the primary financing mechanism for creating and preserving affordable housing.

To facilitate the renovations, CRA Development will use two different sources of financing and funding. First, by assuming the existing mortgage with the current lender, USDA Rural Development. Second, they will raise equity for this project through the sale of Low-Income Housing Tax Credits mentioned earlier. Both of the financing sources ensure that the property will continue to serve persons with incomes at 60% or less of the county median income.

The tax credits are the key element of this transaction and CRA Development must compete for those tax credits. Each year MSHDA conducts one funding round for Rural Development tax credits. Developers submit applications for their projects and the applications are scored using a competitive formula. There are approximately 3 times more applications each funding round than there are available tax credits, hence there are winners and losers.

To have any chance of winning a tax credit reservation, a project must have a PILOT ordinance in effect. A development with a PILOT ordinance has a point advantage over a development that does not have a PILOT ordinance in place. Furthermore, a PILOT is critical to maintaining affordable rents and financially stable property. In affordable housing developments, rents are restricted and expenses are regulated. PILOTs allow properties to maintain affordable rents and still operate the property in a financially stable manner.

A PILOT is the payment of a service charge in lieu of ad valorem taxes. It is a statutory means of providing property tax relief for affordable housing projects. It is permitted under Act 346 (att'd) of the Michigan Statutes and the purpose of the statute is to make affordable housing more affordable.

Only properties that are specifically designated as affordable housing developments and meet specific criteria qualify for a PILOT. The PILOT is a fee, based on annual shelter rents, which are defined as rental income less utilities paid by the Landlord. PILOT's are calculated on a percentage basis that ranges from 0% to 10% of the annual shelter rents. The PILOT fee is then proportionally allocated to all of the various taxing units.

Mr. Austin has provided calculations (*att'd*) to illustrate the effect of the proposed 10% PILOT. Under a 10% PILOT, annual revenues would decrease by about \$200 annually, these numbers are calculated using a conservative 95% occupancy rate, recent historical occupancy rates for Clarendon Glen are closer to 98% so the net effect would be closer to revenue neutral when compared to the current property tax. Fees paid under a PILOT are transparent. The finances of the property are audited annually and a copy of the audit is included with the PILOT calculations and payment.

The PILOT can run for any number of years, however in order to achieve the maximum amount of points it must run for more than 15 years. CRA desires to see the PILOT run for a 20-year term and that is the term outlined in the proposed Ordinance 2023-003 (att'd). Notice of the public hearing for the proposed ordinance has been accomplished (*copy att'd*).

Mr. Austin has stressed that it is imperative to understand that the purpose of granting a PILOT is not to put money into CRA's pocket. As the owners of this property, they have the potential to earn a very limited annual return to the owner (RTO). The real beneficiaries are the residents, in that their rents are maintained at affordable levels; the project, in that the expenses can be maintained at a level to keep the property in good condition; and the community, in that it has revitalized affordable housing.

CRA is seeking the joint cooperation and participation of the City to assist in revitalizing and preserving Clarendon Glen Apartments as an affordable family housing development. With the PILOT and the tax credits, they will be able to offer totally renovated apartments and because of Federal rental assistance, no resident will pay more than 30% of their income towards the rent. Hot water and heat are included in the rents so the resident only pays for electricity.

All ordinance code changes or amendments require the approval of the Clare City Commission. And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. Subsequent to the conduct of the hearing, the Commission has the option of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the proposed new ordinance.

The City Commission is asked to conduct the required public hearing and approve or deny a First Reading of the proposed ordinance.

Issues & Questions Specified. Should the City Commission hold the requisite public hearing and direct the First Reading of the proposed ordinance?

Alternatives.

1. Hold the hearing and direct the first reading (a consent agenda item).
2. Do not hold the hearing or conduct the first reading.
3. Set aside decision regarding this matter to a subsequently scheduled public meeting.

Financial Impact. The developer's proposal is projected to allow the revenue generated from the property to remain essentially the same as the current tax capture on the property.

Recommendation. I recommend that the City Commission conduct the public hearing and conduct the First Reading of the proposed ordinance.

Attachments.

1. Letter from Developer.
2. PA 346.
3. Calculations spreadsheet.
4. Proposed Ordinance 2023-003.
5. Public Notice.

September 12, 2023

CRA Development, LLC
3835 Glade Way
Lansing, MI 48906

Jeremy Howard
City Manager of Clare
202 West Fifth Street
Clare, MI 48617

RE: Clarendon Glen Apartments

Dear Mr. Howard:

It was a pleasure to talk with you to discuss our plans for Clarendon Glen Apartments. Although I shared with you our plans and how we became involved in Clarendon Glen, I will reiterate the points I made so that you can share this information with members of your staff.

Clarendon Glenn is a 24-unit affordable family rental housing development located at 230 Mary Street. It was built in the late 1980's through the Section 515 Program administered by the Rural Development (RD) Agency of the U.S. Department of Agriculture (USDA). Clarendon Glen primarily provides affordable housing for families. The average annual income of a typical resident of an RD property is about \$12,500 (2016 USRD data).

Recently, I purchased a controlling interest in the partnership that owns Clarendon Glen Apartments. My purchase was motivated by the fact that I buy, re-develop, and then manage RD and other similar affordable housing developments.

My vision for the property was to purchase it; and then renovate the property by using the Low Income Housing Tax Credit Program (LIHTC). This is a federal program administered by the Michigan State Housing Development Authority (MSHDA). The tax credit program is the primary financing mechanism for creating and preserving affordable housing. Current economic and regulatory conditions are favorable for us to proceed with this strategy.

My teams renovations to the property focus on the following:

- Improvements that result in reduced maintenance
- Improvements that improve energy efficiency and reduce energy costs
- Improvements that enhance curb appeal and compliment the community

- Improvements that enhance tenant comfort and convenience
- Improvements that enhance marketability

To achieve these improvements, we intend to spend nearly \$1,000,000.00 to renovate the buildings, units and site. Clarendon Glen is long overdue for renovations and the improvements address deferred maintenance issues that include the following:

- Site Improvements & Repairs:
- Sidewalk and site concrete replacement. Provide ADA/barrier free access
- Rebuild parking lot and drive – Remove existing pavement, stabilize base and place 3” of new asphalt
- Replace site lighting with LED fixtures
- Provide landscaping maintenance and enhancements
- Replace dumpster enclosures with vinyl fencing
- Replace site signage
- Add office and community building (where applicable)
- Add playground equipment (where applicable)

Building Common Areas:

- Drywall repair as required prior to painting
- Paint all walls and ceilings
- Replace door frames and doors
- Implement Section 504 ADA improvements for barrier free access
- Replace door hardware with lever handled hardware
- Replace all flooring
- Replace laundry facility and equipment
- Install new energy star light fixtures
- Replace furnaces and water heaters with high efficiency units
- Augment attic insulation to R-49
- Provide recycling facilities

Building Exteriors:

- Install new vinyl siding (Tyvek or equal building wrap), trim, fascia and soffit
- Install new gutters and downspouts
- Replace windows and sliding glass doors with new vinyl, insulated, low e-units
- Replace building entry doors
- Rebuild balconies with composite decking and install new railings (where applicable)

Unit Interiors:

- Drywall repair as required prior to painting walls and ceilings
- Replace all interior doors and frames
- Replace vinyl flooring and carpet
- Replace door hardware with lever handled hardware
- Install new bath accessories and replace shelving
- Replace cabinets and countertops
- Install new kitchen sink and faucet, bath lavatory and faucet, tubs and surrounds, tub and shower valve and toilet using low flow fixtures
- Replace electrical devices and install new energy star light fixtures
- Add smoke detectors
- Install new window treatments
- Replace hydronic baseboard
- Install thru-wall energy star air conditioning unit
- Add energy star ventilated range hood
- Add energy star ventilated bath fans
- Update existing barrier free unit to current ADA standards
- Convert one additional unit to barrier free

To facilitate the renovations we will use two different sources of financing and funding. First, we will assume the existing mortgage with the current lender, USDA Rural Development. Second, we will raise equity for this project through the sale of Low Income Housing Tax Credits mentioned earlier. Both of the financing sources ensure that the property will continue to serve persons with incomes at 60% or less of the county median income.

The tax credits are the key element of this transaction and we must compete for those tax credits. Each year MSHDA conducts one funding round for Rural Development tax credits. Developers submit applications for their projects and the applications are scored using a competitive formula. There are approximately 3 times more applications each funding round than there are available tax credits, hence there are winners and losers.

To have any chance of winning a tax credit reservation, a project must have a PILOT ordinance in effect. A development with a PILOT ordinance has a point advantage over a development that does not have a PILOT ordinance in place. Furthermore, a PILOT is critical to maintaining affordable rents and a financially stable property. In affordable housing developments, rents

are restricted and expenses are regulated. PILOT's allow properties to maintain affordable rents and still operate the property in a financially stable manner.

The need for a PILOT for Clarendon Glen Apartments is the reason we have contacted you. Again, for the benefit of all I will explain a PILOT, which is the acronym for "Payment In Lieu Of Taxes". A PILOT is the payment of a service charge in lieu of ad valorem taxes. It is a statutory means of providing property tax relief for affordable housing projects. It is permitted under Act 346 of the Michigan Statutes and the purpose of the statute is to make affordable housing more affordable. Attachment #1 is the section of the statute that permits the property to be exempt from all ad valorem property taxes.

Only properties that are specifically designated as affordable housing developments and meet specific criteria qualify for a PILOT. In fact, a PILOT ordinance can be project specific. The PILOT is a fee, based on annual shelter rents, which are defined as rental income less utilities paid by the Landlord. PILOT's are calculated on a percentage basis that range from 0% to 10% of the annual shelter rents. The PILOT fee is then proportionally allocated to all of the various taxing units.

To understand the impact to the State, County, and City, I have prepared Attachment #2. This illustrates the effect of our proposal for a 10% PILOT. Under a 10% PILOT, annual revenues would decrease by about \$200 annually, these numbers are calculated using a conservative 95% occupancy rate, recent historical occupancy rates for Clarendon Glen are closer to 98% so the net effect would be closer to revenue neutral when compared to the current property tax. Fees paid under a PILOT are transparent. The finances of the property are audited annually and a copy of the audit is included with the PILOT calculations and payment.

The PILOT can run for any number of years, however in order to achieve the maximum amount of points it must run for more than 15 years. Typically, we like to see the PILOT run for a 20 year term. The PILOT ordinance itself is a standard, boilerplate document because many of the conditions in it are required by the statute. PILOT's are in place in hundreds of communities around the state.

It is imperative to understand that the purpose of granting a PILOT is not to put money into my pocket. As the owner of this property I have the potential to earn a very limited annual return to owner (RTO). The real beneficiaries are the **residents**, in that their rents are maintained at affordable levels; the **project**, in that the expenses can be maintained at a level to keep the property in good condition; and the **community**, in that it has revitalized affordable housing.

I am seeking the joint cooperation and participation of the City to assist in revitalizing and preserving Clarendon Glen Apartments as an affordable family housing development. With the PILOT and the tax credits, I will be able to offer totally renovated apartments and because of Federal rental assistance, no resident will pay more than 30% of their income towards the rent. Hot water and heat is included in our rents so the resident only pays for electricity.

By working together, there is a unique opportunity for a win-win-win situation for the City, for the current and future residents of Clarendon Glen and for us that can result in:

- Preserving and revitalizing quality and affordable housing
- Improving the physical condition and appearance of Clarendon Glen Apartments
- Attract new and retaining existing quality residents
- Economic development that results in jobs, employment and local business
- A financially feasible, long-term investment

As we discussed the sensitivity of this proposal requires that we move deliberately and do a thorough job of educating those individuals who will make the recommendations and decisions. The next tax-credit funding round is December 1, 2023, so my goal is to have this ordinance in place by early November. I can follow whatever process Clare has for requesting a PILOT ordinance.

In the meantime, should you have any questions or require any additional information, please contact me at 989-400-3145. We look forward to working with you.

Chris Austin
Managing Principal
CRA Development Group, LLC

Enclosures as noted:

1. Attachment #1- State Housing Development Authority Act 346 of 1966
2. Attachment #2 – Property Tax Analysis

STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (EXCERPT)
Act 346 of 1966

125.1415a Exemption of housing project from taxes; filing certified notification of exemption with local assessing authority; annual service charge; amount; duration of exemption; distribution of payments for public services; exceptions; payment of service charge equal to full amount of taxes; reduced housing charges; “low income persons and families” defined; rules; reimbursement prohibited.

Sec. 15a.

(1) If a housing project owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is financed with a federally-aided or authority-aided mortgage or advance or grant from the authority, then, except as provided in this section, the housing project 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. The owner of a housing project eligible for the exemption shall file with the local assessing officer a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority for certification by the authority that the project is eligible for the exemption. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

(2) The owner of a housing project exempt from taxation under this section shall pay to the municipality in which the project is located an annual service charge for public services in lieu of all taxes. Subject to subsection (6), the amount to be paid as a service charge in lieu of taxes shall be for new construction projects the greater of, and for rehabilitation projects the lesser of, the tax on the property on which the project is located for the tax year before the date when construction or rehabilitation of the project was commenced or 10% of the annual shelter rents obtained from the project. A municipality, by ordinance, may establish or change, by any amount it chooses, the service charge to be paid in lieu of taxes by all or any class of housing projects exempt from taxation under this act. However, the service charge shall not exceed the taxes that would be paid but for this act.

(3) The exemption from taxation granted by this section shall remain in effect for as long as the federally-aided or authority-aided mortgage or advance or grant from the authority is outstanding, but not more than 50 years. The municipality may establish by ordinance a different period of time for the exemption to remain in effect.

(4) Except as otherwise provided in this subsection, any payments for public services received by a municipality in lieu of taxes under this section shall be distributed by the municipality to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. For payments in lieu of taxes collected after June 30, 1994, the distribution to the several 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, Act No. 331 of the Public Acts of 1993, being sections 211.901 to 211.906 of the Michigan Compiled Laws, for the year for which the distribution is calculated. For tax years after 1993, the amount of payments in lieu of taxes to be distributed to a local school district for operating purposes under this subsection shall not be distributed to the local school district but instead shall 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.

(5) Notwithstanding subsection (1), a municipality may provide by ordinance that the tax exemption established in subsection (1) shall not apply to all or any class of housing projects within its boundaries to which subsection (1) applies. If the municipality makes that provision, the tax exemption established in subsection (1) shall not apply to the class of housing projects designated in the ordinance. If the ordinance so provides, the ordinance shall be effective with respect to housing projects for which an exemption has already been granted on December 31 of the year in which the ordinance is adopted, but not before. A municipality that has adopted an ordinance described in this subsection may repeal that ordinance, and the repeal shall become effective on the date designated in the repealing ordinance.

(6) Notwithstanding subsection (2), the service charge to be paid each year in lieu of taxes for that part of a housing project that is tax exempt under subsection (1) and that is occupied by other than low income persons or families shall be equal to the full amount of the taxes that would be paid on that portion of the project if the project were not tax exempt. The benefits of any tax exemption granted under this section shall be allocated by the owner of the housing project exclusively to low income persons or families in the form of reduced housing charges.

(7) For purposes of this section only, "low income persons and families" means, with respect to any housing project that is tax exempt, persons and families eligible to move into that project. For purposes of this subsection, the authority may promulgate rules to redefine low income persons or families for each municipality on the basis of conditions existing in that municipality.

(8) This state shall not reimburse any unit of government for a tax exemption granted to any housing project under this section.

Claredndon Glen Apartments (Clare, MI)

Property Tax Analysis

September 12, 2023

City Manager Jeremy Howard

Taxable Value \$275,400.00
 SEV
 Assessed Value \$275,400.00
 PILOT \$16,966.64

Ad Valorem/Pilot Allocations

Description	Millage	Taxes	Pilot	Difference
SET		\$1,652.40		
CITY OPERATING		\$5,094.90		
CITY PARKS		\$206.55		
CITY STREETS		\$826.20		
COUNTY ALLOCATED		\$1,291.68		
PM DIST LIBRARY		\$273.27		
ADMIN FEE		\$93.45		
SUMMER TAXES		\$9,438.45		
COUNTY TRANSIT		\$137.14		
COUNTY SENIORS		\$131.66		
911 EXTRA VOTED		\$96.00		
ANIMAL CONTROL		\$82.28		
GYPSY MOTH		\$274.40		
MSU 4H		\$35.66		
RESD OPERATING		\$111.26		
RESD SPEC ED		\$445.45		
RESD CAREER TECH		\$273.14		
MID MICH COLLEGE		\$335.51		
SCHOOL OPERATING		\$4,952.24		
SCHOOL DEBT GO		\$468.18		
SCHOOL DEBT QZAB		\$330.48		
SCHOOL OPER FC		\$0.00		
ADMIN FEE		\$76.73		
WINTER TAXES		\$7,750.13		
Total Taxes		\$17,188.58	\$16,966.64	(\$221.94)

PILOT Calculations

Rental Income	\$ 204,912.00	
Other Income	\$0.00	
Less Vacancy - 5%	\$10,245.60	5.00%
Net Rental Income	\$ 194,666.40	
Less Owner Paid Utilities	\$25,000.00	
Net Annual Shelter Rents	\$169,666.40	
PILOT Service Charge Rate	10.00%	
PILOT Charge	\$16,966.64	

ORDINANCE NO. 2023-003

AN ORDINANCE TO AMEND CHAPTER 16 OF THE CITY OF CLARE CODES OF ORDINANCE BY ADDING SECTION 16-67 TO AUTHORIZE THE PAYMENT OF AN ANNUAL SERVICE CHARGE IN LIEU OF TAXES (PILOT) FOR RESIDENTIAL UNITS HISTORICALLY SERVING LOW-INCOME PERSONS OR FAMILIES IN ACCORDANCE WITH THE STATE HOUSING DEVELOPMENT AUTHORITY ACT 346 OF THE PUBLIC ACTS OF MICHIGAN OF 1966, AS AMENDED, AND MATTERS RELATED THERETO, SPECIFICALLY FOR A HOUSING DEVELOPMENT THAT HAS OPERATED IN THE CITY FOR MANY YEARS AND IS KNOWN AS CLARENDON GLEN APARTMENTS.

THE CITY OF CLARE ORDAINS:

Section 1. Addition of Section 16-67, Clarendon Glen Apartments, Tax Exemption Ordinance. Section 16-67 of Chapter 16 of the Code of Ordinances, City of Clare, Michigan is created to read as follows.

(a) Preamble. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for Low-Income Persons and Families and to encourage the development of such housing by providing a service charge in lieu of property taxes in accordance with Act 346. The City is authorized by Act 346 and this Ordinance to establish or change the annual service charge to be paid in lieu of taxes by any and all Classes of housing exempt from taxation under Act 346 at any amount it chooses, not to exceed the taxes that would be paid but for Act 346. It is further acknowledged that housing for Low-Income Persons and Families is a public necessity, and as the City will benefit and improve from such housing, the encouragement of the same by providing certain real-estate tax exemptions for such housing is a valid public purpose. The continuance of the provisions of this section for tax exemption and the annual service charge in lieu of all *ad valorem* taxes during the period contemplated in this section are essential to the determination of the economic feasibility of housing developments that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that CRA Development, LLC. (the "Sponsor" as defined in subsection (b) below) has committed to rehabilitate, own, and operate a housing development identified as "Clarendon Glen Apartments" on certain property located at 220 Mary Street, parcel identification number 051-400-018-01, Clare, Michigan, which is legally described in subsection (b) (6) below, to serve Low-Income Persons and Families. The City further acknowledges that the Sponsor has offered to pay and will pay to the City, on account of this housing development an annual service charge for public services in lieu of all *ad valorem* property taxes.

(b) Definitions. The terms used within this section shall have the following meanings.

- (1) "Act" means the State Housing Development Authority Act, being Act 346 of the Public Acts of Michigan of 1966, (1966 PA 346, as amended; MCL 125.1401 et seq).
- (2) "Annual Shelter Rent" means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants by the Sponsor.

- (3) "Authority" means the Michigan State Housing Development Authority.
- (4) "Class" means the Housing Development known as Clarendon Apartments for Low Income Persons and Families.
- (5) "City" means the City of Clare, a home rule municipality organized pursuant to Public Act 279 of 1909, as amended, and located in Clare County, Michigan.
- (6) "Contract Rents" means the total Contract Rents (as defined by HUD in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of the Housing Development governed by this section during an agreed annual period, exclusive of Utilities.
- (5) "Development" means the senior housing development to be located in the City on certain unplatted to be known as "The Clarendon Glen Apartments."
- (6) "HUD" means the United States Department of Housing and Urban Development.
- (7) "Housing Development" means Clarendon Glen Apartments for Low-Income Persons and Families which contain a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines to improve the quality of the Housing Development as it relates to housing for persons of low income. The Housing Development is located on the property legally described as:

T17N R4W SEC 34--LOTS 18-19-20-21-22-29-30-31-32-33 GREENBRIAR ESTATES NO 1., Clare County, City of Clare, Michigan.
- (8) "LIHTC Program" means the Low-Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- (9) "Low-Income Persons and Families" means persons and families eligible to move into and reside in the Housing Development.
- (10) "Mortgage Loan" means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition, and/or permanent financing of the Housing Development governed by this section and secured by a mortgage on the Housing Development.
- (11) "Sponsor" means persons or entities that have applied to the Authority for the Tax Credits to finance a Housing Development. For the purposes of this section, the Sponsor is Wellington Limited Dividend Housing Association Limited Partnership.

- (12) "Tax Credits" means the low-income housing Tax Credits made available by the Authority to the Sponsor for rehabilitation of the Housing Development by the Sponsor in accordance with the Low-Income Housing Tax Credit Program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- (13) "Utilities" means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing development.

(c) Class of Housing Development. It is determined that the Class of Housing Development to which the tax exemption shall apply and for which an annual service charge shall be paid in lieu of such taxes shall be the Housing Development defined in this section, that is financed with a Mortgage Loan and known as Clarendon Glen Apartments for Low Income Persons and Families. This section shall apply only to this Housing Development to the extent that the Housing Development provides housing for Low-Income Persons and Families and is financed or assisted by HUD and the Authority pursuant to the Act.

(d) Establishment of Annual Service Charge.

(1) The City acknowledges that the Sponsor and HUD and/or the Authority have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this section and the qualification of the Housing Development for exemption from all ad valorem property taxes and payment of an annual service charge in lieu of ad valorem taxes in an amount established in accordance with this section. In consideration of the Sponsor's offer to rehabilitate, own, and operate the Housing Development, the City agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes that would otherwise be assessed to the Housing Development under Michigan law.

Effective upon the adoption of this section and subject to the receipt by the City of the "Notification of Exemption" (or such other similar notification) by the Sponsor and/or the Authority, the annual service charge shall be equal to ten percent (10 %) of Contract Rents.

Nothing in this section shall be construed to exempt the Development and the property on which it is to be constructed from any special assessments for street or other public improvements or as a result of its location within a business improvement district authorized by 1999 Public Act 49, as amended.

(2) The Housing Development, and the property on which it is constructed, shall be exempt from all ad valorem property taxes from and after the commencement of rehabilitation of the Housing Development by the Sponsor under the terms of this Ordinance.

(e) Limitation on the Payment of Annual Service Charge. Notwithstanding subsection (d), if any portion of the Housing Development is occupied by other than Low-Income Persons and Families, the full amount of the taxes that would be paid on those units of the Housing Development if the Housing Development were not tax-exempt shall be added to the annual service charge in lieu of taxes.

The term "low-income persons or families" as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

(f) Contractual Effect of Section. Notwithstanding the provisions of Section 15(a) (5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority and HUD as third-party beneficiaries under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by the enactment of this Ordinance.

(g) Payment of Annual Service Charge. The annual service charge in lieu of taxes shall be payable to the City in the same manner as ad valorem property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as paid with the general property tax in the previous calendar year. The annual payment shall be paid on or before May 1 of each year for the previous calendar year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.11, et seq.). Annual payments in arrears shall be subject to interest of 1% per month until the 12th month after their due date, and to interest of 1.5% per month retroactive to the due date for annual payments in arrears for longer than 12 months.

Subject to any limitations imposed by law, the Sponsor, or its successor, shall provide to the City such accounting records, audits, and financial reports as the City shall reasonably require to verify the computation of the annual service charge as provided by this section as of December 31st of each year. The Sponsor shall maintain such records of rent or occupancy charges received and the occupancy of units in the Development as will permit the City to verify which of the units in the Development have been occupied by low-income persons or families. The audit shall include details with respect to occupancy of the Housing Development, Contract Rents received from the Housing Development, and the cost for Utilities during the audit period. Annual service charges payable pursuant to this section shall be a lien on the Development, and if delinquent, without prejudice to any remedies for arrears of payment or preceding breach of covenant, shall at the election of the City be collected and enforced in the same manner as general property taxes.

(h) Duration. This Ordinance shall remain in effect and shall not terminate for a period of twenty (20) years from the Effective Date, so long as a Mortgage Loan remains outstanding and unpaid and the housing project remains subject to income and rent restrictions under the LIHTC Program, and so long as the Housing Development submits the required annual notification of exemption pursuant to MCL125.1415a(1), as amended. If the Development is no longer subject to income and rent restrictions under the LIHTC Program, then the exemption from all *ad valorem* property taxes established by this Ordinance shall terminate upon the payoff of the Mortgage Loan or upon the sale of the Development to an unrelated third party. The term of this section shall commence upon the issuance of the Notification to Local Assessor of Exemption as issued by the Authority.

(i) Severability. The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance 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 any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

(k) Inconsistent Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 2. Effective Date. This Ordinance shall be published within 10 days of its enactment on _____ and it shall take effect 15 days after its enactment, as provided in the City Charter.

PROPOSED ORDINANCE AMENDMENT

CITY OF CLARE NOTICE OF PUBLIC HEARING

The Clare Commission will hold a public hearing on Monday, October 2, 2023, at 6:00 p.m., at Clare City Hall, 202 W. Fifth Street, Clare MI to receive public comments pertaining to an Ordinance amendment to Chapter 16 Community Development, *Section 16-67, Clarendon Glen Apartments, Payment In Lieu Of Taxes*. A copy of the proposed Ordinance amendment is available for review by contacting the City at info@cityofclare.gov or calling 989-386-7541. The Clare City Commission will accept comments during the hearing or in writing if the written comments are received by the City Clerk not later than 4 p.m. on the date of the hearing. The City of Clare is an equal-opportunity employer and provider.

Diane Lyon
Clare City Clerk

