

AGENDA REPORT

TO: Mayor & City Commissioners
FROM: Jeremy Howard, City Manager
DATE: October 12, 2023

RE: Second Reading and Adoption-Proposed PILOT Ordinance 2023-003 – Clarendon Glen Apartments

For the Agenda of October 16, 2023

Background The City heard and considered extensive information related to the PILOT request of Chris Austin, CRA Development, at the scheduled meeting of October 2nd. The City Commission held a public hearing and approved a first reading of the proposed ordinance related to the request.

Since CRA Development intends to utilize the Low-Income Housing Tax Credit Program (LIHTC) administered by the Michigan State Housing Development Authority (MSHDA), MSHDA has completed a review of the proposed ordinance and it has requested minor revisions to proposed Ordinance 2023-003; those revisions have been incorporated into the attached Ordinance.

The affected taxing jurisdictions were notified of the proposed ordinance (*see att'd email*) to afford them the opportunity to provide comment regarding the ordinance. The City has received one comment (*att'd*) from Mid Michigan College President Tim Hood.

The City Commission is now asked to render a decision regarding the PILOT request. In making that decision, I suggest that the City Commission consider the value and the need of the housing offered to the community by CRA Development and the tax calculations (*see att'd*) that would be received by granting the PILOT; that each PILOT should be evaluated based upon its own merits; that this PILOT request is for 10%; and other factors that the Commission deems pertinent to this topic. If the Commission deems that a PILOT should be granted, approval of a second reading of the proposed ordinance is required. Whereas, if the City Commission does not believe the granting of the PILOT request is in the best interests of the community, a denial of proceeding to a second reading and disapproval of the PILOT request is needed.

Issues & Questions Specified. Should the City Commission direct a second reading and adopt the proposed PILOT ordinance?

Alternatives.

1. Direct a second reading and adopt the ordinance.
2. Do not direct a second reading and thereby/concurrently deny the adoption of the ordinance.
3. Set aside a decision regarding this matter to a later date.

Financial Impact. The fiscal impact is outlined in the attached spreadsheet.

Recommendation. I recommend that the City Commission direct a second reading and adopt the proposed PILOT Ordinance (Ordinance 2023-003) by approval of Resolution 2023-082.

Attachments.

1. Proposed PILOT Ordinance with revisions.
2. Notice to Taxing Jurisdictions.
3. Comment from Taxing Jurisdiction.
4. Ad Valorem/PILOT Calculations Prepared by CRA Development.
5. Resolution 2023-082.

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.~~
- (6) "Development" means the senior housing development to be located in the City on certain unplatted to be known as "The Clarendon Glen Apartments."
- (7) "HUD" means the United States Department of Housing and Urban Development.
- (8) "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.
- (9) "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.
- (10) "Low-Income Persons and Families" means persons and families eligible to move into and reside in the Housing Development.
- (11) "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.

- (12) "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.
- (13) "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.
- (14) "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~~ **Annual Shelter Rent**.

Nothing in this section shall be construed to exempt the **Housing** 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~~ verification 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.

Passed by the City Commission of the CITY OF CLARE on _____ 2023, at its regular meeting with _____ commissioners in attendance, _____ voting aye, _____ nay. Adopted by the City Commission of the City of Clare this _____, 2023.

Signed: _____, Mayor

I hereby certify that the foregoing was duly adopted by the CITY COMMISSION of CITY OF CLARE, Michigan, at its regular meeting on the _____ 2023, that of _____ members of the City Commission, _____ were in attendance and _____ voted for the adoption of the Ordinance. I further certify that the above and foregoing ordinance is recorded in Ordinances for the CITY OF CLARE.

Effective Date: _____

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Diane Lyon, Clerk

Diane Lyon

From: Diane Lyon
Sent: Wednesday, September 27, 2023 9:24 AM
To: sbissonnette; Tim Hood; 'tmager@cgresd.net'; Tom Pirnstill; assessor; 'Lori Mott'; Lori Phelps; 'Jim Walter'; 'MaryAnn Shurlow (maryannshurlow@gmail.com)'; 'Jenny Beemer'
Cc: Jeremy Howard; Shannon Sirpilla
Subject: Clarendon Glen PILOT Ordinance Request
Attachments: Clarendon Glen Pilot Request Letter.pdf; Ordinance 2023-004 Clarendon Glen PILOT.pdf

Good morning all,

The City of Clare has received a request (att'd) from Mr. Chris Austin, CRA Development Group, for the approval of a PILOT Ordinance (Payment in Lieu of Taxes) for Clarendon Glen Apartments. A copy of the proposed ordinance is attached. A first reading and public hearing of the Ordinance will take place at 6:00 p.m. on October 2, 2023, at the Clare City Commission meeting in the event you wish to provide comment in person at the public hearing. If you wish to provide written comments you may do so by providing a response to this email or mailing/dropping off your written comments to the office of the City Clerk by 4 pm on the date of the hearing.

Respectfully,

Diane Lyon, City Clerk
Clare City Hall
202 W. Fifth St.
Clare, MI 48617

Phone: (989) 424-4068
Fax: (989) 386-4508
Email: dlyon@cityofclare.gov
City Hall office hours Monday -Thursday 7:00am-5:30pm

Diane Lyon

From: Timothy Hood <thood@midmich.edu>
Sent: Wednesday, October 4, 2023 9:38 AM
To: Diane Lyon
Cc: sbissonnette; tmager@cgresd.net; Tom Pirstill; assessor; Lori Mott; Lori Phelps; Jim Walter; MaryAnn Shurlow (maryannshurlow@gmail.com); Jenny Beemer; Jeremy Howard; Shannon Sirpilla; Lillian Frick
Subject: Re: Clarendon Glen PILOT Ordinance Request

Good morning, Diane!

Thank you for the notice of intent, and we remain supportive with no concerns.

Much appreciated!

Tim

On Wed, Sep 27, 2023 at 9:24 AM Diane Lyon <DLyon@cityofclare.gov> wrote:

Good morning all,

The City of Clare has received a request (att'd) from Mr. Chris Austin, CRA Development Group, for the approval of a PILOT Ordinance (Payment in Lieu of Taxes) for Clarendon Glen Apartments. A copy of the proposed ordinance is attached. A first reading and public hearing of the Ordinance will take place at 6:00 p.m. on October 2, 2023, at the Clare City Commission meeting in the event you wish to provide comment in person at the public hearing. If you wish to provide written comments you may do so by providing a response to this email or mailing/dropping off your written comments to the office of the City Clerk by 4 pm on the date of the hearing.

Respectfully,

Diane Lyon, City Clerk

Clare City Hall

202 W. Fifth St.

Clare, MI 48617

Phone: (989) 424-4068

Fax: (989) 386-4508

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

RESOLUTION 2023-082

A RESOLUTION OF THE CLARE CITY COMMISSION ADOPTING CLARENDON GLEN PILOT ORDINANCE 2023-003.

WHEREAS, the City of Clare has determined the need to amend its current Code of Ordinances; and

WHEREAS, the Clare City Commission, at a scheduled public meeting on the 6^h day of October 2023, held an appropriately noticed public hearing related to the amendment of its Code of Ordinances; considered the comments and any recommendations made or offered at the aforementioned public hearing; and directed the first reading of City Ordinance 2023-003, an ordinance to amend the Ordinance Codes of the City of Clare; and

WHEREAS, the Clare City Commission again considered said proposed amendment to its Code of Ordinances at a scheduled public meeting on the 16th day of October, 2023, and conducted a second reading of Ordinance 2023-003.

NOW THEREFORE BE IT RESOLVED THAT the Clare City Commission hereby approves Ordinance 2023-003, thereby amending the Code of Ordinances of the City of Clare.

BE IT FURTHER RESOLVED THAT said Ordinance shall become effective on the 31st day of October, 2023.

ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INsofar AS THEY CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION BE AND THE SAME ARE HEREBY RESCINDED.

The Resolution was introduced by Commissioner _____ and supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 16th day of October, 2023.

Diane Lyon, City Clerk