

RESOLUTION NO. 28783

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE GRANTING OF INCENTIVES TO DEVELOP HOUSING IN CHATTANOOGA; TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE (THE "HEB"); TO AUTHORIZE THE MAYOR OF THE CITY OF CHATTANOOGA TO ENTER INTO AGREEMENTS FOR PAYMENTS IN LIEU OF AD VALOREM TAXES MEETING THE CRITERIA OF SAID PROGRAM AND TO PROVIDE FOR A TERMINATION OF THIS INCENTIVE PROGRAM IN TEN (10) YEARS.

WHEREAS, pursuant to Tennessee Code Annotated, Section 48-101-312, the City of Chattanooga (the "City") is permitted to delegate to The Health, Educational Housing Facility Board of the City of Chattanooga, Tennessee ("HEB") the authority to negotiate and accept payments in lieu of ad valorem taxes ("PILOTs") from lessees of the HEB upon a finding by the City that such payments are deemed to be in furtherance of the respective HEB's public purposes; and,

WHEREAS, the City wishes to encourage the development of housing in the Chattanooga area; and,

WHEREAS, the City has determined that PILOTs from developers of housing for families would be in furtherance of the HEB's respective public purposes as set forth within Part 3 of Chapter 101 of Title 48 of the Tennessee Code Annotated; and,

WHEREAS, the City wishes to set forth the criteria that must be met by developers of housing facilities in order for them to qualify for PILOT treatment at various levels; and

WHEREAS, the City also would like to encourage the development of family housing in the Chattanooga area.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA:

1. That we do hereby find that the development of housing is in the best interest of the City of Chattanooga and Hamilton County, and that PILOTs derived therefrom would be in furtherance of the public purposes of the HEB; and,

2. That, having made such findings, we do hereby delegate to the HEB the authority to negotiate and accept PILOTs from developers of housing for families and accept PILOTs from developers of housing in Chattanooga pursuant to the terms of the attached Chattanooga Housing Initiative PILOT Program (the "Program"); and,

3. That the Mayor of the City of Chattanooga is hereby authorized to enter into Agreements for Payments In Lieu Of Ad Valorem Taxes that meet the criteria of the Program; and,

4. That this Resolution shall be effective for only ten (10) years from its passage, at which time it shall terminate and be of no further force or effect, unless extended by action of the City Council.

5. That the City will use its best efforts to develop a mechanism to make similar incentives available to encourage single family housing in the Chattanooga area.

ADOPTED: September 20, 2016

/mem

Chattanooga Housing PILOT Program

GENERAL PROVISIONS

This Program for the Chattanooga Housing Initiative (the "Program") has been approved by the Chattanooga City Council in order to provide material incentives for the development of workforce housing for families in the City of Chattanooga. Proposed housing projects will be evaluated based upon the criteria of the Program and may qualify for a freeze on property taxes for a number of years that will vary depending upon the factors described in project evaluation and scoring sheets adopted by the HEB.

This tax incentive is possible only if the title to the housing development is transferred to the Health, Educational and Housing Facility Board of the City of Chattanooga (the "HEB"). The reason that this must be done is that under Tennessee law, no reductions or freezes of property taxes may be given to private individuals or entities. If, however, title to property is transferred to a governmental entity, like the HEB, then the governmental entity's interest in property is not subject to ad valorem property taxation. Pursuant to this Program, if the property meets the required criteria, then the tenant of the HEB must agree to make payments in lieu of taxes ("PILOTS") in amounts that are less than the tax that would have been due on the property if it were privately owned. The PILOT program will have the effect of completely or partially freezing the property taxes of the project for the prescribed number of years.

The approval process for projects will consist of the filing of an application with the HEB, approval by the HEB, and individual approval of each project by resolutions of the Chattanooga City Council.

The mechanics of the Program are described below. Capitalized terms are defined in definitional section at the end of this document.

1. Basic Requirements. In order to qualify for the incentives of the Program, a housing development must be located within the City of Chattanooga; must be occupied by persons of low and/or moderate income and/or elderly or handicapped persons; and must qualify as a "project" under the state legislation under which the HEB was incorporated. The Project must be for the rehabilitation of existing property or for new construction. All qualifying projects must comply with all applicable zoning, land use, and building code requirements of the City of Chattanooga.
2. 60% Improvement Required. The value of rehabilitation must be equal to at least 60% of the value of the property prior to the making of any improvement.
3. 50% Affordable Units. Not less than 50% of the units developed shall be available at an affordable cost to persons of low and/or moderate income and/or elderly or handicapped persons with 80% percent area median income.
4. Terms of PILOT Freeze Period and PILOT Phase-In Period. The PILOT Freeze Period of each project shall be shall be determined by the project evaluation and scoring sheets as determined by the HEB. In addition to and after the PILOT Freeze Period, qualifying projects shall have the benefit of a PILOT Phase-In Period of four (4) years during which the following percentage shall be applied to phase the property into full taxation:

Year	Percentage
1	20%
2	40%
3	60%
4	80%

5. Other Requirements. The following additional requirements shall apply to the Program:
- (a) Applications must be made on a written form to be promulgated by the HEB, or its designee, and must be accompanied by a \$3,500 fee for administration and processing. A closing fee dedicated to enforcement of all provisions by the appropriate department up to \$15,000;
 - (b) The HEB, or its designee, shall review the applications using an evaluation and scoring sheet;
 - (c) An applicant must apply for a PILOT Freeze before commencement of construction or rehabilitation of a project;
 - (d) An applicant must own the subject property or have an enforceable option to purchase the property before applying;
 - (e) An applicant whose application for a PILOT Freeze is approved shall have one year from the date of approval to close a PILOT Lease. If this schedule is not met, the applicant must re-submit an application and pay an additional fee of \$1,000;
 - (f) If the project on the property subject to a PILOT Lease does not break ground within two (2) years or if the property has been unoccupied for a period of two (2) years, the PILOT Lease will be terminated and the property will be returned to private ownership and full property taxation;
 - (g) PILOT Freezes may not be assigned—without the prior written approval of the HEB and without a written commitment from the assignee that the new company acknowledges they are bound by the terms in the original agreement;
 - (h) Upon completion of any project qualifying for a PILOT Freeze, the project shall be reviewed by the HEB, or its designee, to determine if it was completed substantially in accordance with the representation set forth in the application. If appropriate, the term of the PILOT Freeze will be reduced by action of the HEB; and
 - (i) This program will not apply to extended stay hotels.
6. Clawback Language. All PILOT In-Lieu-of-Tax Agreements shall contain mandatory clawback language spelling out what shall happen if the developer does not meet the commitments represented in the PILOT application.

7. Annual Review. All PILOT agreements shall be subject to an annual review and report of status to the City Council.

Definitions:

“*PILOT Freeze*” means the benefits conferred under the Program for both the PILOT Freeze Period and the PILOT Phase-In Period.

“*PILOT Freeze Period*” means a period of time during which annual PILOTs are due in an amount equal to the annual tax liability for the property before any new improvements were made, but in no event less than the amount of the Hamilton County School portion of the property taxes that would be due on the property if it had been subject to taxation.

“*PILOT Lease*” means the lease from the HEB to the developer of property subject to this Program.

“*PILOT Phase-In Period*” means a period of time during which annual PILOTs are due in an amount equal to the PILOT amount during the last year of the PILOT Freeze Period, plus a specified percentage of the amount by which the annual tax liability on the property would have increased if the property had been subject to taxation, but in no event less than the amount of the Hamilton County School portion of the property taxes that would be due on the property if it had been subject to taxation.