



**SALISBURY CITY COUNCIL
WORK SESSION AGENDA**

OCTOBER 18, 2021

Government Office Building, Council Chambers, Salisbury, MD and Zoom Video Conferencing

4:30 p.m. Ordinance to create PILOT program- Nate Sansom, Special Assistant to the Mayor

4:45 p.m. Ordinance to create Fee Waiver program- Nate Sansom, Special Assistant to the Mayor

5:20 p.m. Administration and Council Remarks

5:30 p.m. Adjournment

*Times shown are approximate. Council reserves the right to adjust the agenda as circumstances warrant.
The Council reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland 3-305(b).*

Join Zoom Meeting
<https://us02web.zoom.us/j/88186172560>
Meeting ID: 881 8617 2560
Phone: 1.301.715.8592

Posted 10/14/21



To: All Council Members
From: Nathaniel Sansom, Special Assistant to the Mayor
Subject: PILOT- Payment In Lieu of Taxes
Date: October 13, 2021

Included below is a proposal pertaining to the establishment of a Payment in Lieu of Taxes (PILOT) program for affordable housing; this is one of the central pillars of Mayor Day's *Here is Home* initiative announced on September 29th.

State Law

PILOT programs exist throughout the State of Maryland; while many are created at the county level, § 7-501 of the Maryland Tax-Property Article¹ vests municipal governments in all counties other than Worcester County with the authority to “authorize, by law, an exemption from county or municipal corporation property tax” for eligible property, in accordance with § 6-102(e) of the Maryland Tax-Property Article, which pertains to tax on leasehold interests².

The Tax-Property Article also provides for County exemptions for low income family housing in accordance with § 7-503. This Section of the Article creates exemptions for affordable housing owned by nonprofit corporations and LLCs that are exempt from income tax as well as for nonprofit housing corporations, as defined in § 12-104(b) of the Housing and Community Development Article³.

In § 7-506.1, the Tax-Property Article allows for PILOTs for Governmentally subsidized housing outside of Baltimore City; this is the legal authority the City of Salisbury has used to enter into PILOT Agreements in the past.

What Salisbury has done

In 2005, the Council passed **Res. 1296**⁴ which created a policy whereby the city created the framework for PILOT programs. Eligible projects must meet the following criteria:

- They must be “located in a Department of Housing and Urban Development Qualified Census Tract”
- “Have been granted low-income housing tax credits through the State of Maryland program”
- They must also meet certain requirements relating to rental rates, which must be set for 40 years to serve individuals earning less than 50% of our area’s median income.

¹ <https://law.justia.com/codes/maryland/2015/article-gtp/title-7/subtitle-5/section-7-501/>

² <https://law.justia.com/codes/maryland/2015/article-gtp/title-6/subtitle-1/section-6-102/>

³ <https://law.justia.com/codes/maryland/2015/article-gtp/title-7/subtitle-5/section-7-503/>

⁴ <https://salisbury.md/wp-content/uploads/archived/resolutions/Res1296.pdf>

One notable limitation of this program is its dependence upon the County as the amount land owners would pay through the PILOT was to be split between the City and the County and the program was dependent upon the County adopting a similar policy.

In 2016, the Council passed **Res. 2688**⁵, providing a PILOT for the development of Gatehouse market and Lofts at 401 West Main St. This was a Green Street Housing, LLC project that met PILOT requirements through participation in the Maryland Department of Housing and Community Development's Low Income Housing Tax Credit Program.

By Resolution, the City approved a PILOT agreement which provided Green Street with a reduction in "real estate taxes in the amount of \$400 per unit per year if the project continues to provide affordable housing for persons of lower income for a period of forty (40) years from the date the building is granted a certificate of occupancy"⁶. We modeled the enclosed Ordinance and template PILOT Agreement off of that which was used to create the Greenstreet PILOT.

Recommendation

To further the objectives of the *Here is Home* comprehensive housing initiative, the Administration requests that the Council Amend Title 3 (Revenue and Finance) of the City Code, adding the proposed Chapter, 3.26, which establishes a framework authorizing the Mayor to enter into PILOT Agreements on behalf of the City that provides a reduction in real property taxes of up to \$400 per affordable housing unit per year, with the total reduction not to exceed the annual City real property tax assessment for the property. The proposed code revisions are included within the enclosed Ordinance. For reference, a copy of our revised template PILOT Agreement has also been included for your review.

⁵ <https://salisbury.md/wp-content/uploads/2015/12/10-24-16-Amended-Agnd-Pckt.pdf>

⁶ <https://salisbury.md/wp-content/uploads/2015/12/10-24-16-Amended-Agnd-Pckt.pdf> pp. 75-76

Above reference links to template program agreement used in the past.

1 **ORDINANCE NO. ____**

2 **AN ORDINANCE OF THE CITY OF SALISBURY TO ESTABLISH A PAYMENT IN**
3 **LIEU OF TAXES (“PILOT”) TO ENCOURAGE AFFORDABLE HOUSING DEVELOPMENT.**

4 **WHEREAS**, there is a significant need in the City of Salisbury for quality housing units for persons
5 with low to moderate incomes; and

6 **WHEREAS**, Section 7-506.1 of the Tax Property Article of the Annotated Code of Maryland
7 authorizes a municipality to offer a payment in lieu of taxes (“PILOT”) for properties: i) owned by persons
8 engaged in constructing or operating housing structures or projects and ii) used for a housing structure or
9 project that is constructed or substantially rehabilitated under a federal, state or local government program
10 that 1) funds construction, or insures its financing in whole or in part, or 2) provides interest subsidy, rent
11 subsidy or rent supplements; and

12 **WHEREAS**, in accordance with the above enabling authority, the City of Salisbury desires to offer
13 a PILOT to owners of developments eligible to receive financing through the Low Income Housing Tax
14 Credit (LIHTC) Program of the Maryland Department of Housing and Community Development
15 (“DHCD”); and

16 **WHEREAS**, to qualify for the City of Salisbury PILOT, owners participating in the LIHTC
17 Program must 1) operate an eligible development project as rental housing for low to moderate income
18 households and limit rents pursuant to the Extended Low Income Housing Covenant for Low Income
19 Housing Tax Credits between the owner and DHCD; 2) make no less than sixty percent (60%) of the
20 housing units available to households having incomes of no more than sixty percent (60%) of the area
21 median income; and 3) continue to qualify in all respects under the provisions of Section 7-506.1 of the
22 Tax Property Article of the Annotated Code of Maryland; and

23 **WHEREAS**, implementing the PILOT will encourage eligible owners to construct or expand the
24 inventory of affordable housing in the City of Salisbury; and

25 **WHEREAS**, the Mayor joins with the City Council in recommending the implementation of the
26 PILOT.

27 **NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE**
28 **CITY OF SALISBURY, MARYLAND**, as follows:

29 **Section 1.** Title 3 of the Salisbury City Code, entitled “REVENUE AND FINANCE”, be and hereby is
30 amended by adding a new Chapter 3.26, titled “Payment in Lieu of Taxes (PILOT)”, as follows:

31 **Chapter 3.26 Payment in Lieu of Taxes (PILOT)**

32 **3.26.010 – Definitions**

33 **In this Chapter, the following words have the following meanings indicated.**

34 **“Affordable Housing Development” means a housing structure or project in the City of Salisbury**
35 **that is: 1) eligible to receive financing through the Low Income Housing Tax Credit (LIHTC)**
36 **Program of the Maryland Department of Housing and Community Development (“DHCD”); 2)**
37 **operates as rental housing for low to moderate income households and limits rents pursuant to the**
38 **Extended Low Income Housing Covenant for Low Income Housing Tax Credits between the owner**
39 **and DHCD; 3) makes no less than sixty percent (60%) of the housing units available to households**

40 having incomes of no more than sixty percent (60%) of the area median income; and 4) continues to
41 qualify in all respects under the provisions of Section 7-506.1 of the Tax Property Article of the
42 Annotated Code of Maryland.

43 “Affordable Housing Unit” means a dwelling within the Affordable Housing Development that is
44 offered for rent for residential occupancy and is made available to households having incomes of no
45 more than sixty percent (60%) of the area median income.

46 “Payment in lieu of taxes” means an authorized payment made by the owner of an Affordable
47 Housing Development instead of paying the City of Salisbury real property tax.

48 3.26.011 – Requirements of PILOT Agreement

49 The City of Salisbury shall enter into an agreement to accept a negotiated payment in lieu of the real
50 property tax that would otherwise be levied on an Affordable Housing Development. Such an
51 agreement shall consist of the following minimum terms:

52 A. Affordable Housing Developments shall receive a reduction of the City of Salisbury
53 real property tax in an amount of Four Hundred Dollars (\$400.00) per Affordable Housing Unit per
54 year, the collective amount of which shall not exceed the total annual City of Salisbury real property
55 tax assessed to the Affordable Housing Development. The reduced amount provided for herein shall
56 be accepted by the City of Salisbury as a payment in lieu of taxes, provided that:

57 B. The housing structure or project continues to qualify as an Affordable Housing
58 Development, as set forth in 3.26.010, for a period of forty (40) years from the date the Affordable
59 Housing Development is granted a certificate of occupancy. At any time after receiving a negotiated
60 agreement for payment in lieu of taxes, but before forty (40) years after receiving a certificate of
61 occupancy, if the housing structure or project fails to meet the requirements set forth in this Section
62 3.26.011 (B), then the owner of the housing structure or project shall pay to the City of Salisbury the
63 difference between the ordinary City real property taxes and the payment in lieu of taxes for all years
64 from the date the housing structure or project fails to meet the requirements of this Section 3.26.011
65 (B) back to the date of the initial reduction set forth in the above Section 3.26.011(A), as if the
66 property had not been granted a payment in lieu of taxes.

67 3.26.012 – Authority to Bind

68 The Mayor of the City of Salisbury is authorized to enter into an agreement with the owner of an
69 Affordable Housing Development for a payment in lieu of taxes in accordance with this Chapter 3.26.

70 **BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF**
71 **SALISBURY, MARYLAND, as follows:**

72 **Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision
73 of this Ordinance shall be deemed independent of all other provisions herein.

74 **Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any
75 section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid,
76 unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication
77 shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other
78 provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

79 **Section 4.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as
80 if such recitals were specifically set forth at length in this Section 4.

81 **Section 5.** This Ordinance shall take effect from and after the date of its final passage.

82

83 **THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City
84 of Salisbury held on the _____ day of _____, 2021 and thereafter, a statement of the substance of
85 the Ordinance having been published as required by law, in the meantime, was finally passed by the Council
86 of the City of Salisbury on the _____ day of _____, 2021.

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89 ***[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]***

90 ***[SIGNATURES APPEAR ON THE PAGE THAT FOLLOWS]***

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115 **ATTEST:**

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119 **Kimberly R. Nichols, City Clerk**

John R. Heath, City Council President

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123 Approved by me, this _____ day of _____, 2021.

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128 **Jacob R. Day, Mayor**

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1 **PAYMENT IN LIEU OF TAX AGREEMENT**

2 **THIS AGREEMENT**, made this _____ day of _____, 20__, by and between **City of**
3 **Salisbury, Maryland**, a municipal corporation of the State of Maryland (hereinafter referred to as the
4 “City”), and _____, a _____ formed in the State of
5 _____ (hereinafter referred to as the “Owner”)(the City and _____ are hereinafter referred to
6 individually as “Party” or collectively as the “Parties”).

7 **WHEREAS**, the Owner proposes to develop the multifamily component of _____, a
8 _____ development consisting of a commercial building and rental apartments, located at _____ in
9 Salisbury, Maryland (the “Property”) for the purposes of providing rental housing for low to moderate
10 income households (the “Project”); and

11 **WHEREAS**, Section 7-506.1 of the Tax Property Article of the Annotated Code of Maryland, as
12 amended, provides, among other things, that real property in the City may be exempt from City property
13 tax if:

- 14 (a) The real property is owned by a person engaged in constructing or operating housing structures
15 or projects; and
16
- 17 (b) The real property is used for a housing structure or project that is constructed or substantially
18 rehabilitated under a federal, state or local government program that:
19
 - 20 (1) funds construction, or insures its financing in whole or in part, or
 - 21 (2) provides interest subsidy, rent subsidy or rent supplements; and
 - 22
 - 23
- 24 (c) The Owner:
25
 - 26 (1) agrees to continue to maintain the real property as rental housing for lower income
27 persons under the requirements of the government programs and to renew any annual
28 contributions contract or other agreement for rental subsidy or supplement; or
 - 29
 - 30 (2) enters into an agreement with the governing body of the City to allow the property or
31 portion of the property which was maintained for lower income persons to remain as
32 housing for lower income persons.

33 **WHEREAS**, the Owner plans to operate the Project as rental housing for low to moderate
34 income households and intends to comply with Section 7-506.1 of the Tax Property Article of the
35 Annotated Code of Maryland; and

36 **WHEREAS**, the Owner has demonstrated to the City that an agreement for payments in
37 lieu of taxes is necessary; and

38 **WHEREAS**, pursuant to City of Salisbury, MD Ordinance No. _____ adopted,
39 _____, 20__, the City Council of Salisbury, Maryland, authorized the Mayor to enter into
40 an agreement for payments in lieu of taxes for qualifying projects.

41 **NOW, THEREFORE, THIS AGREEMENT WITNESSETH:** In consideration of the
42 mutual covenants, terms and agreements hereof and pursuant to the power and authority of Section
43 7-506.1 of the Tax Property Article of the Annotated Code of Maryland, it is agreed as follows:
44

45 1. The Owner agrees: (1) that it will operate the Project as rental housing for low to
46 moderate income households and will limit rents pursuant to the Extended Low Income Housing
47 Covenant for Low Income Housing Tax Credits between the Owner and the Maryland Department
48 of Housing and Community Development (herein the “Extended Use Covenant”); (2) it will make
49 no less than 60 percent of the units available to households having incomes of no more than 60
50 percent of the area median income (“Affordable Housing Units”); and (3) that the Project qualifies
51 and will continue to qualify in all respects under the provision of said Section 7-506.1 of the Tax
52 Property Article of the Annotated Code of Maryland.
53

54 2. Beginning July 1, 2022, or the July 1 following the issuance of certificate of
55 occupancy, whichever is later, the Property shall be exempt from ordinary City real property taxes,
56 provided the Property continuously meets the requirements set forth in the above paragraph 1 for a
57 period of forty (40) years. In lieu of ordinary City real property taxes, the Property shall make a
58 payment equivalent to the Property’s total annual City real property tax assessment , reduced by
59 the amount of Four Hundred Dollars (\$400.00) per Affordable Housing Unit per year, which
60 collective reduction shall not exceed the total annual City real property tax assessment. The
61 payments to be made hereunder by the Owner to the City with respect to the Property shall be in
62 lieu of all ordinary City taxes on real property under the Tax Property Article of the Annotated
63 Code of Maryland, and shall be made by the Owner first and accepted by the City through the Fiscal
64 Year 2058, or for forty (40) years following the issuance of the certificate of occupancy.
65

66 3. This Agreement shall be in effect for forty years, which is anticipated to be through
67 **Fiscal Year 20__**, **ending June 20__** and the portion of the property to be maintained for lower
68 income persons shall remain as housing for lower income persons for a term of at least forty (40)
69 years pursuant to Section 7-506.1(a)(2)(iv)2. The Property shall be assessed and reassessed from
70 time to time as though for purposes of City real property taxation according to the regular methods
71 and practices applicable to other real property of a similar classification in the City of Salisbury.
72

73 4. If at any time during the term of this Agreement, the City real property taxes are
74 less than the Payment in Lieu of Taxes (the “PILOT”); the Owner shall pay the ordinary City real
75 property taxes payable as if the property not been tax exempt.
76

77 5. For the **Fiscal Years 20__ through 20__** the Owner’s annual payment in lieu of
78 taxes shall be calculated as follows:
79

80 Owner shall make payment in lieu to the City in an amount equal to the fiscal year taxes, an amount
81 of the assessed value of the property times the City tax rate minus (such subtracted amount
82 calculated as follows: $\$400 \times \text{Affordable Housing Units} = \_____). No credit shall be
83 given to the Owner in the event the reduction is in excess of the City tax rate.

84 6. By July 30th of each year, the City shall bill the Owner for the payment which is
85 due by September 30th of that year, as set forth in this Agreement.
86

87 7. Payments due hereunder will be considered delinquent thirty (30) days after the
88 due date of the bill sent to the Owner. Interest at the rate of one percent (1%) per month shall be
89 charged and collected by the City on all amounts remaining unpaid thirty (30) days after the due
90 date.
91

92 8. If, during the term of this Agreement, a Project fails to meet the requirements set
93 forth in the above paragraph 1, then the Owner shall pay a sum equal to the total real property taxes

94 which would have been due from the Owner in the absence of this Agreement, plus all interest, if
95 any, less all amounts actually paid under this Agreement.
96

97 9. If the Owner is in default for one hundred eighty (180) days for any payment
98 required under any of the provisions of this Agreement, the City may, at its option, declare a default
99 by providing written notice of the default to the Owner and to the holders of all mortgages or deeds
100 of trust. If within thirty (30) days of such notice, the payments have not been brought current, then
101 the City may, at its option, declare all amounts due as follows: a sum equal to the total real property
102 taxes which would have been due from the Owner in the absence of this Agreement, plus all
103 interest, if any, less all amounts actually paid under this Agreement. To enforce its rights under this
104 paragraph, the City may renegotiate this Agreement, foreclose, or seek any other remedy available
105 at law or in equity. Notwithstanding anything to the contrary which is or might be contained in this
106 agreement, payments due under this paragraph shall be considered a first lien against the Property
107 and superior to any other liens placed upon the Property and may be collected in the same manner
108 as City real property taxes.
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110 10. In the event of the sale or other transfer of Owner's right, title and interest in and
111 to the Project, which shall only occur with the express written consent of the City, which consent
112 shall not be unreasonably withheld, Owner shall be relieved of all obligations and liabilities under
113 this Agreement accruing after the date of such sale or transfer, and the purchaser or transferee of
114 Owner's right, title and interest in and to the Property shall automatically, without the execution of
115 any further documentation, become responsible for all obligations and liabilities of Owner under
116 this Agreement accruing from and after the date of such sale or transfer. Any subsequent sales or
117 transfers shall likewise relieve the seller or transferor of all obligations and liabilities under this
118 Agreement accruing from and after the date of sale or transfer, and the purchaser or transferee shall
119 automatically become responsible therefor.
120

121 11. This Agreement may be assigned to a holder of a mortgage or deed of trust in the
122 event of a foreclosure or transfer under said mortgage or deed of trust, provided that the assignee
123 shall be subject to the terms and conditions of this Agreement.
124

125 12. For the purposes of this Agreement, all notices shall be hand-delivered or mailed
126 by first class mail or certified mail, return receipt requested or via overnight delivery service.
127 Notices shall be given to the Parties as follows:

128 TO CITY: Office of Finance/City of Salisbury
129 Government Office Building
130 125 N. Division Street
131 Salisbury, MD 21801
132

133 TO OWNER: _____
134 OWNER ADDRESS
135 _____
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137 _____
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Each notice that is sent by one Party to the other Party at the listed address shall be presumed to have been received three (3) days after the date of mailing; except when prior written notice is given by one Party to the other that a Party or an address has changed. Notwithstanding any provision to the contrary contained in this Agreement, any person or Party not listed in this paragraph shall not be entitled to notice as may be required by this Agreement unless one Party notifies the other Party that additional notice shall also be sent to such person or Party.

13. This Agreement shall inure to the Parties hereto and their respective successors, assigns, and/or legal representatives.

14. The recitals set forth at the beginning of this Agreement shall be deemed to be a part of this Agreement.

15. Mention in this Agreement of any specific right or remedy shall not preclude the City from exercising any other right or remedy available at law or in equity; and the failure of the City to insist in any one or more instances upon a strict or prompt performance of any obligation of Owner under this Agreement, or to exercise any option, right or remedy herein contained or available at law or equity, shall not be construed as a waiver or relinquishment thereof, unless expressly waived in writing by the City. The waiver by the City of any breach of this Agreement requires the City's written consent to any act or conduct of Owner; and knowledge of, or acquiescence by the City in, any such act or conduct shall not be deemed a waiver of the requirement for written consent. Exercise by the City, or the beginning of the exercise by the City, of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not be construed as an election of remedies so as to preclude the simultaneous or subsequent exercise by the City of any other right or remedy for such breach.

16. This Agreement contains the entire agreement of the Parties to this Agreement with respect to the matters set forth herein. All other agreements and understandings of the Parties to the Agreement, written or oral, if any, are merged into this Agreement.

17. This Agreement may be amended or modified in whole or in part only by an agreement in writing, executed by all of the Parties to this Agreement.

18. The Parties covenant and agree with one another, upon the request of any Party to this Agreement, to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged or delivered, any such further act(s), deed(s), document(s), assignment(s), transfer(s), conveyance(s), power(s) of attorney or assurance(s) as may be reasonably necessary or desirable to give full effect to this Agreement and the transactions contemplated by the terms contained herein.

19. Whenever possible, each provision and term of this Agreement shall be interpreted in a manner to be effective and valid, but if any provision or term of this Agreement is adjudged by a court of competent jurisdiction to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity and without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.

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20. This Agreement, and all the terms and conditions contained herein, shall not be construed or enforced in favor of or against any Party hereto by reason of the fact that Party or that Party's agent or attorney drafted all or any part of this Agreement. Unless otherwise expressly provided, the words "hereof", "herein" and "hereunder" and similar references refer to this Agreement in its entirety and not to any specific section or subsection hereof, the words "including" or "includes" do not limit the preceding words or terms and the word "or" is used in the inclusive sense. As used herein, any reference to the masculine, feminine or neuter gender shall include all genders, the plural shall include the singular, and the singular shall include the plural.

21. It is understood and agreed by the execution of this Agreement that the City does not waive any rights of governmental immunity which it may have in any damage suits against it, and that the City reserves the right to plead governmental immunity in such suit in law or in equity or such pleading as is appropriate notwithstanding the execution of this Agreement.

22. Owner shall indemnify, defend and save harmless the City and its officers, employees and agents from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorneys' fees, in any way connected with any injury to any person or damage to any property or any loss to the City or third parties.

23. This Agreement shall be governed by the Maryland law and any actions between the Parties hereto shall be brought in and vest jurisdiction and venue solely in the Circuit Court for Wicomico County.

24. Each of the Parties hereby expressly waive trial by jury in any action, proceeding or counterclaim brought by any Party hereto against any other Party on any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the Parties to one another and/or any claim, injury or damage arising from or consequent upon this Agreement.

25. Each Party represents and warrants to the other Party that: **(i)** it has the full right, power and authority to execute this Agreement; **(ii)** the execution and delivery of this Agreement and the performance of its obligations hereunder are not prohibited by or in breach of, and the provisions hereof do not conflict with, any other agreement, mortgage, contract or other instrument or document to which it is a party or by which it is otherwise bound; and, **(iii)** there are no legal requirements imposed upon it which prohibit or limit the execution and delivery of this Agreement and the performance of its obligations hereunder.

IN WITNESS WHEREOF, the City has caused this Agreement to be signed in its name by the Mayor of the City of Salisbury, to be attested to by the City Clerk, and to have the City Seal affixed hereto; and the Owner has caused this Agreement to be signed in its name by its Authorized Agent, duly attested.

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ATTEST:

ATTEST:

OWNER:

_____ (Seal)

By: _____
Authorized Agent

CITY OF SALSBURY, MARYLAND

_____ (Seal)

Jacob R. Day
MAYOR, City of Salisbury



To: All Council Members
From: Nathaniel Sansom, Special Assistant to the Mayor
Subject: Housing Expansion Incentive Program
Date: October 14, 2021

The enclosed ordinance and fee waiver program documents comprise a central pillar of Mayor Day's *Here is Home* comprehensive housing initiative announced on September 29th. This program offers residential developers a 90-day window from the date of final passage to enter into a Program Agreement that will incentivize residential construction by waiving fees outlined in "Exhibit 1" of the Program Application.

Overview & Previous Actions Taken

In February of 2017, the Council passed Resolution 2734, which created a moratorium on fees related to the construction of new single-family detached houses. This moratorium was later codified for platted infill lots. Now, the Administration desires to offer more robust incentives to spur residential construction in the near future by providing fee waivers listed in "Exhibit 1" of the Program Application. These waivers shall be administered in accordance with the terms and timeline established in the Program Agreement.

Comprehensive Connection Charges

Section 13.04.110 created an EDU Incentive Area to allow for EDU credits to be awarded, discounting the City's comprehensive connection charges. Ordinance 2611 amended the code to introduce section 13.04.120, which created the comprehensive connection charge waiver for projects in the Central Business Zoning District or Riverfront Redevelopment Zoning District. Recently, in September of 2020, Ordinance 2614 revised Sections of Title 13 to update the definition of comprehensive connection charges, in accordance with DID recommendations.

This program will extend similar Comprehensive Connection Charge benefits to eligible residential development projects, regardless of location within the City so long as they are enrolled in the Program and meet set forth in the construction timeline outlined in the Program Application and Program Agreement.

While the Program will provide fee waivers for most comprehensive connection charges, there shall be no fee waiver applied to Water and Sewer Infrastructure Reimbursement Fees, Water Meter/Tap Fees and Sewer Connection Fees.

Permitting Fees

Resolution 2734 established a moratorium on comprehensive connection charge fees, plan review, building permit, plumbing permit, and mechanical permit fees required by the Department of Infrastructure and Development (DID) for the construction of new single family detached dwelling units. This moratorium was later extended by Resolution 2911, before then becoming codified and narrowly tailored to apply to platted lots for infill development.



The Program will extend similar benefits, in the form of full and partial fee waivers, to eligible residential development projects, regardless of location within the City so long as such projects have an executed Program Agreement within ninety (90) days of final passage of the ordinance and abide by the timeline established in the Program Agreement.

The Following fees related to residential development shall be waived in accordance with the terms outlined in the Program Application: Building Plan Review Fees; Building Permit Fees; Demo- Residential (Building Fee); Gas (Building Fee); Mechanical (Building Fee); Plumbing (Building Fee); Development Plan Review Fee; Subdivision Review Fee; Resubdivision Review Fee; Critical Area Fees (Certificate of Compliance), Infrastructure Reimbursement Administrative Fee; Water Meter Setting Fee; Fire Prevention Fees, to include Basic Fees, Expedited Fees, After Hours Inspection Fees; and Fire Permit Fees, to include Fire Alarm & Detection Systems and Sprinkler, Water Spray and Combined Sprinkler & Standpipe Systems

Annexation Fees

The City currently charges Annexation Fees ranging from \$2,000 (for the annexation of up to five acres) to \$50,000 (for the annexation of fifty or more acres). This Housing Expansion Incentive Program provides, annexation fee waivers to developers participating in the Program, who have signed an Annexation Petition. Development Assessment Fees shall also be waived.

Fiscal Impact Estimate – typical fees for development (Provided by DID)

	Site Plan Review	Building Plan Review	Building	Plumbing	Gas	Fire	Mechanical	Capacity Fees	Subtotal per unit	TOTAL Fees	
Typical Single Family:		\$ 150.00	\$ 2,090.00	\$ 280.00	\$ 40.00	\$ 1,250.00	\$ 25.00	\$ 3,710.00	\$ 7,545.00		
50 Unit Single Family Development:	\$ 1,200.00									\$ 378,450.00	
Typical Apartment Building (24 units):		\$ 250.00	\$ 11,900.00	\$ 2,460.00	\$ 40.00	\$ 7,900.00	\$ 25.00	\$ 89,040.00	\$ 4,650.63		
100 Unit Apartment Complex Development:	\$ 1,200.00									\$ 466,262.50	

Recommendation

The Administration requests your consideration and approval of the enclosed ordinance to establish a program to encourage the expansion of residential housing in the City of Salisbury by adding a new Chapter, 3.27, to Title 3 of the City Code.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SALISBURY TO ESTABLISH A PROGRAM TO ENCOURAGE THE EXPANSION OF RESIDENTIAL HOUSING IN THE CITY OF SALISBURY, KNOWN AS THE HOUSING EXPANSION INCENTIVE PROGRAM.

WHEREAS, the City seeks to increase the construction and expansion of residential housing in the City of Salisbury to encourage home ownership and enhance the economic welfare of the community as a whole; and

WHEREAS, the City through the Department of Infrastructure and Development assesses a multitude of permitting, annexation and development assessment fees and comprehensive connection charges in connection with the construction of residential housing; and

WHEREAS, the City believes a waiver of the aforementioned fees and charges will encourage expansion of residential housing construction and development and, accordingly, has developed a Housing Expansion Incentive Program Guidelines and Application with specific requirements that shall be monitored and administered by the Department of Infrastructure and Development in order to ensure that all information and submissions are correct and properly considered; and

WHEREAS, the Mayor joins with the City Council in recommending the implementation of the Housing Expansion Incentive Program and application process; and

WHEREAS, Section 13.02.07A8 of the Salisbury Municipal Code allows the Mayor and Council to adopt discounts for the comprehensive connection charge to encourage water and sewer usage consistent with the City’s goals; and

WHEREAS, the City of Salisbury, Department of Infrastructure and Development requires annexation and development assessment fees to be paid for properties being annexed into the City of Salisbury; and

WHEREAS, City policy requires the approval of the City Council in order to waive any fee that is associated with a project not being performed directly by the City.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 1. Title 3 of the Salisbury City Code, entitled “REVENUE AND FINANCE, be and hereby is amended by adding a new Chapter 3.27, titled “Housing Expansion Incentive Program”, as follows:

Chapter 3.27 Housing Expansion Incentive Program

3.27.010 – Definitions

In this section, the following words have the following meanings indicated.

“Residential Development” means real estate development for residential purposes.

“Fee Waivers” includes the following fees:

52 Comprehensive Connection Charges, subject to the exclusion below
53 Building Plan Review Fees
54 Building Permit Fees
55 Demo- Residential (Building Fee)
56 Gas (Building Fee)
57 Mechanical (Building Fee)
58 Plumbing (Building Fee)
59 Annexation Fees, to include Annexation – Development Assessment Fees
60 Water and Sewer Connection Fee
61 Development Plan Review Fee
62 Subdivision Review Fee
63 Resubdivision Review Fee
64 Critical Area Fees (Certificate of Compliance)
65 Infrastructure Reimbursement Administrative Fee
66 Water Meter Setting Fee
67 Fire Prevention Fees, to include Basic Fees, Expedited Fees, After Hours Inspection Fees
68 Fire Permit Fees, to include Fire Alarm & Detection Systems and Sprinkler, Water Spray and
69 Combined Sprinkler & Standpipe Systems

70
71 “Fee Waivers” does not include Critical Area Program Fees (Fee-in-Lieu), Water and Sewer
72 Infrastructure Reimbursement Fee, Water Meter/Tap Fee and Sewer Connection Fee, Any
73 necessary Reinspection Fees

74
75 3.26.011 – Purpose

76
77 The Housing Expansion Incentive Program is hereby established for the purpose of accelerating the
78 construction or expansion of Residential Development in the City of Salisbury.

79
80 3.26.012 – Requirements of the Housing Expansion Incentive Program

81
82 A. The City hereby adopts the Housing Expansion Incentive Program Guidelines and the
83 Application submitted with this ordinance and attached hereto and incorporated herein as Exhibit
84 A as the initial approved application and grants administrative powers to the Director of the
85 Department of Infrastructure and Development to process and monitor submitted applications, to
86 make necessary changes to the application for the Housing Expansion Incentive Program, and to
87 adopt such additional rules and regulations as may be necessary for the proper and efficient
88 administration of the Housing Expansion Incentive Program.

89
90 C. An application for the Housing Expansion Incentive Program shall be subject to pre-approval by
91 the Mayor of the City of Salisbury.

92
93 D. Upon pre-approval of an application for the Housing Expansion Incentive Program by the Mayor
94 of the City of Salisbury, the Department of Infrastructure and Development shall prepare a Housing
95 Expansion Incentive Program Agreement, and if the Residential Development is outside the City of
96 Salisbury, an Annexation Petition, for execution by the Applicant and the City. A Housing Expansion
97 Incentive Program Agreement shall contain the following minimum terms:

- 98
99 1. Applicants shall receive Fee Waivers pursuant to the Housing Expansion Incentive
100 Guidelines and Application attached as Exhibit A hereto;
101

- 102 2. Applicants shall pay all fees eligible for Fee Waivers on time and in full as the Residential
103 Development progresses. Any fees paid by the Applicant which are eligible for Fee
104 Waivers shall be maintained by the City in a separate Fee Waivers escrow account. Fee
105 Waivers shall be effectuated through a refund of the amounts deemed to be waived, with
106 such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy
107 for the Residential Development; and
108
109 3. Applicants shall adhere to the Housing Expansion Incentive Program Agreement,
110 including but not limited to the deadlines for plan approval, commencement of
111 construction and issuance of a certificate of occupancy.
112

113 **3.27.013 – Authority to Bind**

114
115 **The Mayor of the City of Salisbury is authorized to enter into a Housing Expansion Incentive**
116 **Program Agreement in accordance with this Chapter 3.27.**
117

118 **3.27.014 – Reporting**

119
120 **The Mayor of the City of Salisbury shall provide a report to the City Council summarizing the**
121 **participation in the Housing Expansion Incentive Program, the status of approved Residential**
122 **Development projects, and the cost to the City of Salisbury in terms of collective Fee Waivers. This**
123 **report shall be provided within ninety (90) days of the adoption of this ordinance, and on January 31**
124 **of each year thereafter, through the date of January 31, 2028.**
125
126

127 **BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF**
128 **SALISBURY, MARYLAND, as follows:**

129 **Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision of this
130 Ordinance shall be deemed independent of all other provisions herein.

131 **Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any section,
132 paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or
133 otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to
134 the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this
135 Ordinance shall remain and shall be deemed valid and enforceable.

136 **Section 4.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such
137 recitals were specifically set forth at length in this Section 4.

138 **Section 5.** This Ordinance shall take effect from and after the date of its final passage.
139

140 **THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of
141 Salisbury held on the ____ day of _____, 2021 and thereafter, a statement of the substance of
142 the Ordinance having been published as required by law, in the meantime, was finally passed by the Council
143 of the City of Salisbury on the ____ day of _____, 2021.
144

145 ***[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]***

146 ***[SIGNATURES APPEAR ON THE PAGE THAT FOLLOWS]***
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ATTEST:

Kimberly R. Nichols, City Clerk

John R. Heath, City Council President

Approved by me, this _____ day of _____, 2021.

Jacob R. Day, Mayor

HOUSING EXPANSION INCENTIVE PROGRAM AGREEMENT

THIS HOUSING EXPANSION INCENTIVE PROGRAM AGREEMENT (“**Program Agreement**”), is dated this ____ day of _____ 20 __, by and between the *City of Salisbury, Maryland*, a municipal corporation of the State of Maryland (the “**City**”), and **NAME**, a Maryland limited liability company (“**Name**”) (NAME is hereinafter sometimes referred to as the “**Developer**” or “**Owner**”) (the City and NAME are hereinafter referred to individually as a “**Party**” or collectively as the “**Parties**”).

Recitals

WHEREAS, via Ordinance No. ____ passed on _____, 2021, the City established a Housing Expansion Incentive Program to encourage residential development and revitalization in the City of Salisbury, (hereinafter referred to as the “**Program**”);

WHEREAS, Developer is the owner of all that certain real property, and improvements thereon, located in the City of Salisbury, Wicomico County, State of Maryland identified as Map ____, Grid ____, Parcel ____, and being described as “_____” (hereinafter referred to as the “**Property**”);

WHEREAS, Developer plans to develop the Property by constructing _____, which, when complete, will consist of _____ (hereinafter referred to as the “**Project**”);

WHEREAS, Developer has submitted a Housing Expansion Incentive Program Guidelines and Application packet to the City, which completed packet is attached hereto as **Exhibit 1** and incorporated by reference as if fully set forth herein;

WHEREAS, the Parties acknowledge and agree the Project will have a material impact on the revitalization of Salisbury by significantly increasing the housing inventory available within Salisbury;

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. **Term.** This Program Agreement shall commence on _____ and shall continue for a term of ____ (the “**Term**”).

2. **Dates.**

(a) This Program Agreement shall be deemed effective as of the date and year first above written, which shall be the later of the following dates: (a) the date this Program Agreement is executed by Developer; or, (b) the date this Program Agreement is executed by the City.

(b) This Program Agreement must be executed by **INSERT date 90 days after Ordinance passes** in order for Developer to take advantage of the full fee waiver benefits provided herein.

(c) To qualify for a full fee waiver, as defined and more fully set forth in the attached Exhibit 1, Developer shall meet the following deadlines:

(i) The Project’s Building Permit application and site plans shall be submitted and approved by the Department of Infrastructure and Development no later than December 31, 2022; and

(ii) Developer shall commence construction on the Project no later than December 31, 2023; and

(iii) Developer shall obtain the certificate of occupancy for the Project no later than June 30, 2025 for multifamily development projects, or June 30, 2027 for single-family development projects.

(d) To qualify for a partial fee waiver, as defined and more fully set forth in the attached Exhibit 1, Developer shall meet the following deadlines:

(i) The Project's Building Permit application and site plans shall be submitted and approved by the Department of Infrastructure and Development no later than December 31, 2022; and/or

(ii) Developer shall commence construction on the Project no later than December 31, 2023; and/or

(iii) Developer shall obtain the certificate of occupancy for the Project no later than June 30, 2025 for multifamily development projects, or June 30, 2027 for single-family development projects.

3. **Warranties and Obligations of the City:** The City does hereby warrant and agree for the benefit of Developer as follows:

(a) The City shall grant Fee Waivers to Developer, calculated in accordance with the guidelines set forth on the attached Exhibit 1 and as more fully set forth in a Letter of Intent issued by the City of Salisbury Department of Infrastructure and Development, which Letter of Intent is attached hereto as **Exhibit 2** and incorporated by reference as if fully set forth herein.

(b) All fees shall be paid by Developer on time and in full as the Project progresses. Any fees paid by Developer which may be eligible for Fee Waivers shall be maintained by the City in a separate Fee Waivers escrow account. Fee Waivers shall be effectuated through a refund of the amounts deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

4. **Warranties and Obligations of the Developer.** The Developer does hereby warrant and agree for the benefit of the City as follows

(a) Developer shall adhere to the Guidelines and requirements set forth in Exhibits 1 and 2. If the Property is located outside of the City of Salisbury, Developer shall execute an Annexation Petition simultaneously herewith.

(b) As set forth above, all fees shall be paid by Developer on time and in full as the Project progresses. Fee Waivers shall be effectuated through a refund of the amounts deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

(c) Developer shall indemnify, defend and save harmless the City and its officers, employees and agents from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorneys' fees, in any way connected with any injury to any person or damage to any property or any loss to the City or third parties.

(d) The City shall have the right to refuse or recall Fee Waivers if the City believes the work for development of the Project is unsatisfactory, construction of the Project is not being completed according to this Program Agreement, or the Project otherwise does not meet the eligibility requirements.

5. **Miscellaneous.**

(a) **Authority.** Each Party represents and warrants to the other Party that: **(i)** it has the full right, power and authority to execute this Program Agreement; **(ii)** the execution and delivery of this Program Agreement and the performance of its obligations hereunder are not prohibited by or in breach of, and the provisions hereof do not conflict with, any other agreement, mortgage, contract or other instrument or document to which it is a Party or by which it is otherwise bound; and, **(iii)** there are no legal

requirements imposed upon it which prohibit or limit the execution and delivery of this Program Agreement and the performance of its obligations hereunder.

(b) **Entire Agreement.** With the exception of any requisite Annexation Petition, this Program Agreement, and all exhibits attached hereto, constitute the entire agreement and understanding of the Parties with respect to the matters set forth herein, and all prior negotiations, writings and understandings relating to the subject matter of this Program Agreement are merged herein and are superseded and canceled by this Program Agreement.

(c) **Waiver - Amendments.** Any of the terms or conditions of this Program Agreement may be waived but only in writing by the Party which is entitled to the benefit thereof, and this Program Agreement may be amended or modified in whole or in part only by an agreement in writing executed by all of the Parties.

(d) **Binding Nature of Agreement.** This Program Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and permitted assigns. Developer may assign this Program Agreement and all its rights hereunder to any successor(s)-in-interest of Developer with respect to its ownership of, or any of its rights in and to, the Project or any part or portion thereof. In the event of such an assignment, and/or transfer of the Property, the new owner or interest holder shall enter into a modified agreement with the City, affirming the benefits and obligations of the original Program Agreement.

(e) **Severability.** The invalidity or unenforceability of any provision of this Program Agreement shall not affect or otherwise limit the validity and enforceability of the other provisions hereof.

(f) **Construction.** This Program Agreement and all of the terms and conditions set forth herein shall not be construed or enforced in favor of or against any Party hereto by reason of the fact that Party or that Party's agent or attorney drafted all or any part of this Program Agreement. Section headings are for convenience of reference only and shall not limit or otherwise affect any of the provisions of this Program Agreement. As used herein, any reference to the masculine, feminine or neuter gender shall include all genders, the plural shall include the singular, and the singular shall include the plural.

(g) **Governing Law.** This Program Agreement shall be construed and enforced in accordance with the laws of the State of Maryland, without regard to its conflict of laws principles. The Parties hereto acting for themselves and for their respective successors and assigns, without regard to domicile, citizenship or residence, hereby expressly and irrevocably consent to and subject themselves to the jurisdiction of the Maryland courts and to venue in Wicomico County, Maryland with respect to any matter arising under, from or in connection with this Program Agreement.

(h) **Waiver of Jury Trial.** The Parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counter-claim brought by a Party hereto against the other on any matter whatsoever arising out of or in any way connected with this Program Agreement, the relationship of the Parties to one another, and/or any claim, injury or damage arising from or consequent upon this Program Agreement.

(i) **Recitals.** The Recitals set forth hereinabove are incorporated by reference herein, and made a part hereof, as if fully set forth in this Program Agreement.

(j) **Counterparts.** This Program Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals and acknowledged this Program Agreement as of the date and year referenced below.

WITNESS/ATTEST:

THE CITY:

City of Salisbury, Maryland

By: _____ (SEAL)
Jacob R. Day, Mayor

Date: _____, _____, 20__

DEVELOPER:

NAME

By: _____ (SEAL)
Printed name and title

Date: _____, _____, 20__



Housing Expansion Incentive Program

Guidelines and Application

Department of Infrastructure & Development
Room 202
125 N. Division Street
Salisbury, Maryland 21801

Phone: 833-SBY-CITY

September 2021

Housing Expansion Incentive Program Guidelines and Application

The Housing Expansion Incentive Program (the “**Program**”) is a graduated fee waiver program. The primary goal of the Program is to accelerate the construction of residential development throughout Salisbury. Projects that meet eligibility requirements shall qualify for a full or partial waiver of annexation fees, permitting fees, comprehensive connection charges, and/or development assessment fees, as set forth in detail on the attached **Exhibit 1** (collectively referred to as the “**Fee Waivers**”). Guidelines for the Program are set forth below (the “**Guidelines**”), immediately followed by the Program Application (the “**Application**”).

Eligibility for Program Fee Waivers

A developer (each an “**Applicant**” and collectively the “**Applicants**”) may submit written documentation to the Director of the Department of Infrastructure & Development (“**DID**”) to establish eligibility for a property which is planned for residential development (the “**Project**”), which must demonstrate that the Project meets all of the following criteria:

1. The Project must either be located within the City of Salisbury or, in addition to completing this application, the applicant(s) must sign an Annexation Petition with the City.
2. The Project must comply with all applicable Zoning and Building Codes.
3. The Project must comply with all requirements of the Salisbury Historic District Commission.
4. Applications for the Program must be received, reviewed and confirmed as complete by DID PRIOR to the issuance of a certificate of occupancy for the Project.

General Conditions

1. Applicants must comply with all Program guidelines and conditions.
2. Applicants must be the owner of the Project to apply for the Program.
3. Properties and owners must be current on all City, County, State, and Federal property and income taxes and remain current throughout the Program term. Failure to comply shall result in suspension of the Fee Waivers during any period of non-compliance and, at the discretion of the Mayor, may result in termination of the Housing Expansion Incentive Program Agreement (the “**Program Agreement**”) and the forfeiture of Fee Waivers for the remainder of the Program Fee Waiver Schedule set forth in the Program Agreement.
4. Building permits for a Project must be issued within the schedule defined in the Program Agreement.
5. All construction work for a Project must comply with applicable laws, ordinances, building codes and zoning ordinances.
6. The Application must include drawings of the proposed Project made to the specifications required by the Director of DID which demonstrate what the Project will look like when completed and show it will be in full compliance with the requirements of the Program.
7. The Applicant shall not deviate from the Project described in the Application or change the intended use of the property (e.g. change the Project from development of residential units to development of retail space); doing so without the prior approval of the Director of DID and the Council shall disqualify the Project for the Fee Waivers.

8. It is expressly agreed that Applicants shall be solely responsible for all safety conditions and compliance with all safety regulations, building codes, ordinances, and other regulations applicable to any Project for which Fee Waivers are sought under the Program.
9. It is expressly understood and agreed by each Applicant, that Applicants waive and release the City of Salisbury, its agents, employees, officers and/or directors from any and all liability for or arising from any property damage, personal injury, or other loss related in any way to the Project, the development and/or construction thereof, the Program or any Fee Waivers granted to an Applicant thereunder.
10. Each Applicant shall be responsible for hiring and executing an agreement with a general contractor, licensed to operate in the State of Maryland, for the construction of the Project. Each Applicant shall ensure that, in connection with the construction of the Project, its general contractor provides insurance coverage for comprehensive public liability, property damage liability, builder's risk, and workers' compensation.
11. Each Applicant must certify that: there are no hazardous materials located on the property at which the Project is constructed; the Applicant shall not cause or allow any hazardous materials to be placed on the property at which the Project is constructed; and, the property at which the Project is constructed is in compliance with all applicable Federal, State, and local environmental laws and regulations.
12. Applicants shall maintain or cause to be maintained both property and commercial general liability coverage for the Project and the property at which the Project is constructed, both during and after the construction/rehabilitation related to the Program.
13. If a Project is located in the 100-year floodplain, as designated by Federal Emergency Management Agency (FEMA), the Applicant shall be required to provide evidence of flood insurance coverage.
14. Following the completion of the Project, the Applicant shall ensure that all necessary approvals for the commencement of the activities that will take place on the property, including all applicable permits and licenses, have been obtained.
15. To be eligible to participate in the Program, the Program Agreement must be executed no later than ninety (90) days following the City Council's passage of the Fee Waiver Ordinance No. _____, passed on _____.
16. Having met all other requirements to participate in the Program, in order to qualify for each of the Program Fee Waivers the Applicant shall abide by the development timeline established in the Program Agreement.
17. An Applicant shall maintain the property and all improvements of the Project, and otherwise comply with the Municipal Code of the City of Salisbury.
18. An Applicant shall authorize the City of Salisbury to promote any Project approved for the Program. Such promotion by the City of Salisbury may include, but is not limited to displaying a sign at the Project site during and after construction, and using photographs and descriptions of the Project in City of Salisbury materials and press releases.
19. The City of Salisbury shall have the right to refuse and/or rescind the Fee Waivers granted for the Project if the City believes the work is unsatisfactory, the construction of the Project is not being completed according to the approved Application or the executed Program Agreement, or the increased assessed value of the real property following completion of Project construction does not meet the eligibility requirements.

20. If the property at which a Project approved for the Program is constructed (or planned for construction) changes ownership and becomes tax exempt during the term of the program, then 50% of the Fee Waivers received prior to such change of ownership shall be reimbursed to the City of Salisbury within thirty (30) days from the date of settlement on the change of ownership. Repayment of Fee Waivers shall be required, and, to the fullest extent permitted by law, shall be a lien on the property for which the Fee Waivers were requested.

Fee Waiver Schedule

1. Full Fee Waivers: Timeline and Development Benchmarks

- a. The Program Agreement must be executed within ninety (90) days from the passage of the Fee Waiver Ordinance No. ____, passed on _____, in order for Applicant to take advantage of the full Fee Waivers provided herein.

- b. All fees shall be paid on time and in full as the Project progresses. Any fees paid by the Owner which may be eligible for Fee Waivers shall be maintained by the City in a separate Fee Waivers escrow account. Fee Waivers shall be effectuated through refunds pursuant to the following timelines and development benchmarks:
 - (i) If all building permit applications and site plans related to the Project are approved by the Department of Infrastructure and Development by December 31, 2022, the City shall provide Fee Waivers equal to 25% of all permitting, annexation, and development assessment fees related to the project; the 25% Fee Waivers shall also be applied to comprehensive connection charges, excluding water and sewer infrastructure reimbursement fees. Fee Waivers shall be applied separately to each waived fee (i.e., 25% of the building permit fee is waived, 25% of the water and sewer connection fee is waived, etc.). Fee Waivers shall be provided in the form of a refund of the amount deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

 - (ii) If construction on the Project commences no later than December 31, 2023, the City shall provide Fee Waivers equal to the 25% of all permitting, annexation, and development assessment fees related to the project; the 25% Fee Waivers shall also be applied to comprehensive connection charges, excluding water and sewer infrastructure reimbursement fees. These subsection 1(b)(ii) Fee Waivers shall be provided in addition to any Fee Waivers received through subsection 1(b)(i). Fee Waivers shall be applied separately to each waived fee (i.e., 25% of the building permit fee is waived, 25% of the water and sewer connection fee is waived, etc.). Fee Waivers shall be provided in the form of a refund of the amount deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

 - (iii) If a Certificate of Occupancy for the Project is issued no later than June 30, 2025 for multifamily development projects, or June 30, 2027 for single-family development projects, the City shall provide Fee Waivers equal to 50% of all permitting, annexation, and development assessment fees related to the project; the 50% Fee Waivers shall also be applied to comprehensive connection charges, excluding water and sewer infrastructure reimbursement fees. These subsection 1(b) (iii) Fee Waivers shall be provided in addition to any waivers received through subsections 1(b) (i) and (ii). Fee Waivers shall be applied separately to each waived fee (i.e., 50% of the building permit fee is waived, 50% of the water and sewer connection fee is waived, etc.). Fee Waivers shall be provided in the form of a refund of the amount deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

2. Projects Currently in the development Pipeline – Partial Benefit

a. Projects currently under development may participate in a modified version of this program so long as they have an executed Program Agreement within ninety (90) days of the passage of the Fee Waiver Ordinance No. _____, passed on _____.

b. All fees shall be paid on time and in full as the Project progresses. Any fees paid by the Owner which may be eligible for Fee Waivers shall be maintained by the City in a separate Fee Waivers escrow account. Fee Waivers shall be effectuated through refunds pursuant to the following timelines and development benchmarks:

(i) If all building permit applications and site plans related to the Project are approved by the Department of Infrastructure and Development by December 31, 2022, the City shall provide Fee Waivers equal to 25% of all permitting, annexation, and development assessment fees related to the project, *which such Fee Waivers shall be applicable only to future fees which have not yet become due in the ordinary course of the Project's development*. The 25% Fee Waivers shall also be applied to comprehensive connection charges, excluding water and sewer infrastructure reimbursement fees and *provided they have not yet become due in the ordinary course of the Project's development*. Fee Waivers shall be applied separately to each waived fee (i.e., 25% of the building permit fee is waived, 25% of the water and sewer connection fee is waived, etc.). Fee Waivers shall be provided in the form of a refund of the amount deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

(ii) If construction on the Project commences no later than December 31, 2023, the City shall provide Fee Waivers equal to the 25% of all permitting, annexation, and development assessment fees related to the project, *which such Fee Waivers shall be applicable only to future fees which have not yet become due in the ordinary course of the Project's development*. The 25% Fee Waivers shall also be applied to comprehensive connection charges, excluding water and sewer infrastructure reimbursement fees and *provided they have not yet become due in the ordinary course of the Project's development*. These subsection 2(b)(ii) Fee Waivers shall be provided in addition to any Fee Waivers received through subsection 2(b)(i). Fee Waivers shall be applied separately to each waived fee (i.e., 25% of the building permit fee is waived, 25% of the water and sewer connection fee is waived, etc.). Fee Waivers shall be provided in the form of a refund of the amount deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

(iii) If a Certificate of Occupancy for the Project is issued no later than June 30, 2025 for multifamily development projects, or June 30, 2027 for single-family development projects, the City shall provide Fee Waivers equal to 50% of all permitting, annexation, and development assessment fees related to the project, *which such Fee Waivers shall be applicable only to future fees which have not yet become due in the ordinary course of the Project's development*; the 50% Fee Waivers shall also be applied to comprehensive connection charges, excluding water and sewer infrastructure reimbursement fees and *provided they have not yet become due in the ordinary course of the Project's development*. These subsection 2(b)(iii) Fee Waivers shall be provided in addition to any waivers received through subsections 2(b)(i) and (ii). Fee Waivers shall be applied separately to each waived fee (i.e., 50% of the building permit fee is waived, 50% of the water and sewer connection fee is waived, etc.). Fee Waivers shall be provided in the form of a refund of the amount deemed to be waived, with such refund to be paid in a lump sum upon the issuance of the Certificate of Occupancy for the Project.

All Fee Waivers shall be prorated based upon the proportion of development with a residential use

All Fee Waivers shall be prorated based upon the proportion of the Project that is developed for residential use. The portion of the Project developed for residential use shall be calculated based upon the proportion of project-related EDUs that are residential EDUs. To better understand the intent of this provision regarding how program Fee Waivers are to be prorated, refer to the example provided below.

Requirements for the Program Agreement

1. The Director of the Department of Infrastructure and Development, or a designee thereof, shall draft a Program Agreement with eligible Applicants that includes the following:
 - a. Calculation of the sum total of all charges and fees that are eligible to be offset through Fee Waivers, in accordance with the development timeline and benchmark milestones. The calculations shall be set forth by DID in a Letter of Intent issued to Applicant after submission of the Program Application.
 - b. Calculations, based on the proportion of residential EDUs, of the percentage of the Project that is for residential use, which shall be eligible for Program Fee Waivers. All calculations shall be enumerated so that Applicants are fully advised what proportion of the Project is eligible for Fee Waivers, in accordance with the timeline and development benchmarks listed above. These calculations shall be included in the Letter of Intent issued by DID after Applicant's submission of the Program Application.
 - (i) Example: If a Project required a total of 100 EDUs – 80 EDUs for residential components with the remaining 20 EDUs being used for a commercial portion, then the Fee Waivers would only apply to 80% of the fees associated with the Project.
 1. In this example, if the Project were eligible for the full Fee Waivers, it would receive up to a 100% waiver on 80% of fees associated with the Project.
 2. If the Project in this example were eligible for the partial Fee Waivers, it would receive up to a 50% waiver on 80% of fees associated with the Project.
 - c. Draft an Annexation Petition for all proposed Projects located outside of City limits. The an Annexation Petition shall be signed by the Program Applicant and submitted with the signed Program Agreement.

Fee Waiver Process

1. Fee Waivers shall be applied to fees on an individual basis in accordance with the above Fee Waiver Schedule. Fee Waivers may be combined with other local, state and federal incentive programs. Fee Waivers will not supersede other local, state, and federal incentive programs and will be applied after the application of those incentive programs. Fee Waivers cannot exceed 100% of any individual fee.
2. Properties must be current on all City, County, State, and Federal property and income taxes. All Fee Waivers shall be suspended unless and until the property's owners and tenants are current on all City, County and State property and income taxes.
3. Once initiated, the Fee Waivers shall run, in accordance with schedule set forth above, for the entire term of the Program unless the owner of the property becomes delinquent in paying the above described taxes or fails to meet the eligibility requirements or general conditions of the Program.

Requirements for Application for Program Waiver

1. Interested Applicants must meet with DID staff to review the Program and specifications for the Applicant's Project.

2. One copy of the completed Application shall be submitted in paper form to DID and an electronic copy shall also be emailed to infdev@salisbury.md.
3. Portions of an Applicant's Application may be kept confidential by completing a Nondisclosure Agreement upon request and providing specific reasons for the request. Notwithstanding any term to the contrary set forth herein, Applicants expressly acknowledge and agree that any Maryland Public Information Act requests may result in information marked "confidential" by the Applicant being disclosed by the City unless such information is prohibited from disclosure (or is permitted for non-disclosure) under Maryland's Public Information Act.
4. **IMPORTANT NOTE:** Applications for the Program must be received, reviewed and confirmed as complete by DID PRIOR to the issuance of a certificate of occupancy for the Project.
5. The Director of DID shall issue an official Notice of Pre-Approval in the form of a Letter of Intent to be signed by the Applicant. Included with the Letter of Intent shall be a preliminary summary of Fee Waivers for the Project and a proposed draft Program Agreement for the Project. If the Project involves mixed-use or commercial components, the Director of DID shall also include the prorated total of all charges and fees that are eligible to be offset through Program Fee Waivers; the Director of DID shall determine this prorated Fee Waivers total based upon the proportion of the Project's EDUs that are residential EDUs. If the Project is located outside of the City limits, the Letter of Intent and draft Program Agreement shall also include an Annexation Petition. Applicants must sign and submit the Program Agreement, and any an Annexation Petition, within thirty (30) days of receipt of these documents.
6. Once the Letter of Intent has been signed, the Application and recommendation shall be forwarded to the Mayor for the Mayor's pre-approval.
7. DID staff shall finalize the Program Agreement for the Project, which must be executed by the Applicant within fifteen (15) days of the Applicant's receipt thereof. After the Applicant has fully executed the Program Agreement and, if applicable, Annexation Petition, the agreement(s) shall be presented to the Mayor for the Mayor's final approval.
8. Applicants shall agree to adhere to the timeline and development benchmarks included in the Application, in the Program Agreement, and (if applicable) any Land Disposition Agreements/Contracts approved by the City.
9. The Program Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and permitted assigns. Applicant may assign the Program Agreement and all rights thereunder to any successor(s)-in-interest of Applicant with respect to its ownership of, or any of its rights in and to, the Project or any part or portion thereof. In the event of such an assignment, and/or transfer of the Property, the new owner or interest holder shall enter into a modified agreement with the City, affirming the benefits and obligations of the original Program Agreement.

Exhibit 1

Eligible Projects may qualify for full or partial waivers of the following fees:

Comprehensive Connection Charges, subject to the exclusion below
Building Plan Review Fees
Building Permit Fees
Demo- Residential (Building Fee)
Gas (Building Fee)
Mechanical (Building Fee)
Plumbing (Building Fee)
Annexation Fees, to include Annexation – Development Assessment Fees
Water and Sewer Connection Fee
Development Plan Review Fee
Subdivision Review Fee
Resubdivision Review Fee
Critical Area Fees (Certificate of Compliance)
Infrastructure Reimbursement Administrative Fee
Water Meter Setting Fee
Fire Prevention Fees, to include Basic Fees, Expedited Fees, After Hours Inspection Fees
Fire Permit Fees, to include Fire Alarm & Detection Systems and Sprinkler, Water Spray and
Combined Sprinkler & Standpipe Systems

The following fees shall not be waived:

Critical Area Program Fees (Fee-in-Lieu)
Water and Sewer Infrastructure Reimbursement Fee
Water Meter/Tap Fee and Sewer Connection Fee
Any necessary Reinspection Fees

**City of Salisbury
Program Application**

General Information

Application Date: _____

Legal Name of Business:

Address of Property:

Legal Description of Property:

Name of Business Owner:

Address of Business Owner:

Business Owner Telephone #: _____

Business Owner E-mail address: _____

Name of Property Owner:

Address of Property Owner:

Property Owner Telephone #: _____

Property Owner E-mail address: _____

Equivalent Dwelling Units (EDUs)

Total Number of EDUs required _____

Number of Residential EDUs required _____

Number of Commercial EDUs required _____

Percentage of EDUs that are Residential EDUs _____

Project Narrative

1) General description of the proposed project:

2) How does this project align with the Program goals?

3) Use Mix: Type of Use / Percentages:

4) Property ownership structure:

5) Do you intend to “Phase” the project? If so, please provide phasing details.

6) Description of on- or off-site or associated additional projects, if applicable.

7) Description of public or tenant accessible amenities, if applicable.

Check any other incentives / programs that have been applied for.

- Enterprise Zone
- Rise Zone
- Comprehensive Connection Charge Waivers
- Revolving Loan Program
- Community Legacy Grant
- SD/SGIF Grant
- Other City/County/State/Federal Grant
- Other Tax incentives
- Energy use incentives
- Other Public investment

I, the Applicant, have read and understand the Program guidelines, and I agree to abide by the general conditions as set forth in this Application. I further understand that if I am awarded Fee Waivers, I shall be required to enter into a Program Agreement and, if applicable, an Annexation Petition with the City of Salisbury.

Signature of Project Owner: _____

Printed Name: _____ Date: _____

Signature of Property Owner (if different from Project Owner):

Signature of Property Owner: _____

Printed Name: _____ Date: _____