



# PAYMENT-IN-LIEU-OF-TAXES (PILOT) PROGRAM POLICY AND APPLICATION

Program Administered by:  
**The Finance Authority of New Orleans**  
201 St. Charles Avenue, Suite 4444  
New Orleans, Louisiana 70170  
(504) 524-5533  
[www.financeauthority.org](http://www.financeauthority.org)

*Policy adopted as of April 21, 2020*



MAKING NEW ORLEANS  
A BETTER HOME

# THE FINANCE AUTHORITY OF NEW ORLEANS PAYMENT-IN-LIEU-OF-TAXES (PILOT) PROGRAM POLICY AND APPLICATION

## DESCRIPTION

The Finance Authority of New Orleans' Payment-In-Lieu-Of-Taxes (PILOT) Program ("Program" or "PILOT Program") is a financial incentive designed to encourage the development of affordable housing real estate opportunities in and around one of the City-defined Mandatory Inclusionary Zoning ("MIZ") zones by "freezing" property taxes at the predevelopment level for a predetermined period of time. The eligible amount of time for a PILOT to be in place is determined by use, cost, as well as other criteria (Appendix I). PILOTs are not entitlements. In order to qualify for a PILOT, the project must (i) be in a MIZ zone; or (ii) qualify for low-income housing tax credits or bond financing through the Louisiana Housing Corporation.

## FANO'S PILOT AUTHORITY

FANO is a public trust and public corporation established for public purposes for the benefit of the City of New Orleans, Louisiana under and pursuant to the provisions of the Louisiana Public Trust Act, being Chapter 2-A of Title 9 of the Louisiana Revised Statutes of 1950, as amended, La. R.S. 9:2341-2347, inclusive (the "Public Trust Act"), and other constitutional and statutory authority supplemental thereto, for the furtherance and accomplishment of the public function or purpose of the City of New Orleans, Louisiana, including but not limited to affordable housing, mortgage finance and related services, activities, facilities, and properties.

As a public trust with the City of New Orleans as its beneficiary, La. R.S. 9:2347(M) provides as follows with respect to FANO authority to issue PILOTS for property owned (but not occupied) by FANO in connection with FANO's public purpose of affordable housing, mortgage finance and related services, activities, facilities, and properties:

*"The property of any public trust, having as its beneficiary a parish, municipality, or a political or governmental subdivision thereof which is authorized under its trust indenture to engage in or issue bonds to finance projects for substantially all of the public purposes set forth in R.S. 9:2341(B)(1), acquired or held for one or more of said purposes, is hereby declared to be public property used for essential public and governmental purposes. Accordingly, such public trust, and all of its properties at any time owned by it and the income therefrom and all bonds issued by it and the income therefrom, shall be exempt from all taxes of the parish or municipality, the state, or any political subdivision thereof or any other taxing*

*body, provided, however, that such public trust may require the lessee of each of the projects of the public trust to pay annually to parish or municipal taxing authorities or to any other taxing body, through the normal collecting agency, a sum in lieu of ad valorem taxes to compensate such authorities for any services rendered by them to such projects, which sum shall not be in excess of the ad valorem taxes such lessee would have been obligated to pay to such authorities had it been the owner of such project during the period for which such payment is made. Such payments to be made in lieu of taxes together with any fees and charges of such public trust, to the extent in the aggregate they do not exceed the amount of taxes that would be paid if the lessee were the owner, shall constitute statutory impositions within the meaning of R.S. 47:2128. No provision of this Subsection shall become effective until approved by resolution of the parish, municipality, or a political or governmental subdivision thereof which is the beneficiary of such public trust.”*

## **MIZ ELIGIBILITY REQUIREMENTS**

In order to be eligible for the Program, applicants must meet the following requirements:

- The project should be located within a MIZ zone and/or within the City of New Orleans, Louisiana as designated by the City Council, and as may be amended from time to time by the City Council.
- Projects outside of a MIZ zone must pass a “*but for*” test that determines that the project would not be financially feasible without a PILOT. FANO shall have the sole discretion to select the firm that conducts the analysis, but the cost of the “*but for*” analysis shall be the responsibility of the developer seeking the PILOT.
- Applicant must own the property or have an option or other right to purchase the property.

## **TERM & PILOT PAYMENTS**

The payments that will be made in lieu of taxes for an approved project shall be in accordance with the formula set forth on Appendix I attached hereto.

The maximum terms for PILOTs shall be as follows:

- **PILOTS including Mandatory Inclusionary Zone and Affordable Housing Only:** Up to 10 year term
- **PILOTS including, MIZ Affordable Housing, Tax Credit and Bond Financing Components:** Up to 40 year term.

PILOT Payments shall be paid quarterly, consistent with tax collection schedule.

## **PROGRAM FEES**

### **Application Fee\***

All applications for a PILOT must submit a non-refundable application fee to FANO along with their written application as follows:

Developments Within MIZ Zones with Affordable Housing	\$750
Developments Outside of MIZ Zones with Affordable Housing	\$1,500
Developments without Affordable Housing Outside of MIZ Zones	\$3,000

*\* Additional fees or costs may apply in addition to the initial application fee.*

### **Closing Fee**

If a PILOT is granted, a closing fee based on total project costs will be due upon closing. Project costs shall be determined on the basis of the total budgeted cost for a project including, without limitation, all soft and hard costs. The proposed budget set forth in any application shall be deemed to be a certification by the applicant that it is a reasonable estimate of all project costs. An updated budget may be requested at the time of closing of such PILOT.

- a) The closing fee for PILOT projects is 1/10 of 1% of the "as-completed" appraisal (or a "prospective future market value upon completion of construction of the project" appraisal, as the case may be), of the property that is to be owned by FANO and subject to the PILOT (with no cap on the amount). For example, if the PILOT applies only to leasehold improvements, then the appraisal would be only on those leasehold improvements. If the PILOT applies to land and improvements, then the appraisal would be on both. The foregoing appraisal must be furnished to FANO, at the applicant's expense, prior the delivery of the closing so that the closing fee and annual fee (see "Annual Administration Fee" below) can be determined in advance and incorporated into the transactional agreements. The appraisal must be prepared by a General Real Estate Appraiser, certified or licensed by the Louisiana Real Estate Appraisers Board and acceptable to FANO.
- b) The application fee will be credited against the closing fee.

### **Annual Administrative Fee**

Projects with a PILOT feature pay the Closing Fee described in 3(b) above, PLUS an ongoing Annual Administrative Fee payable in each year that a reduced PILOT is in effect. The Annual Administrative Fee shall be in the same amount as the 1/10 of 1% Closing Fee described in under "Closing Fee" section above, but subject to an annual cap of \$50,000. The Annual Administrative Fee for such issues will be due and payable on each February 1, however bonds delivered on or after October 1 of any calendar year will begin paying the Annual Administrative Fee on the second February 1 thereafter.

### **Extension Fee**

If a PILOT does not close within one year from approval, the applicant may request an extension of up to one year, subject to a \$2,500 extension fee. The extension fee shall not be credited against the closing fee.

**Transfer Fee**

The sale, transfer or assignment of the lessee’s interest in a PILOT lease requires the approval of FANO. If so, a fee equal to one percent of the project value shall be due in connection with such approval.

- Project value shall be determined on the basis of the total value given (including, without limitation, cash and assumption of debt) in the event of sale, transfer or assumption of all of the lessee’s interest in a PILOT.
- If the sale, transfer or assumption is for less than all of the lessee’s or borrower’s interest, project value shall be determined on the basis of an appraisal of the project.

**APPLICATION PROCESS**

**A. PROCESS FOR MANDATORY INCLUSIONARY ZONE (“MIZ”) AND AFFORDABLE HOUSING PILOTS (Non-Tax Credit and Non-Bond Transactions Only)**

**STEP 1: Initial Eligibility and Pre-Submittal Conference**

It is recommended that potential applicants contact The Finance Authority of New Orleans (“FANO”) to evaluate their eligibility for the Program. The FANO staff (“Staff”) will ensure that all eligibility criteria are met prior to submitting an application. If the potential applicant would like to move forward with the application process, FANO Staff will schedule a meeting with FANO’s Underwriting Committee (the “Underwriting Committee”) prior to submission of the application. The Underwriting Committee has scheduled meetings on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday of the month. The purpose of the Underwriting Committee meeting is to acquaint all parties with the scope of the project and any related issues. This meeting also serves to familiarize the applicant with the submittal and review process along with Program requirements and policies. The estimated eligible PILOT Term may be determined in this meeting.

**ESTIMATED TIMING: Typically within 30-day period from date of potential applicant’s initial contact with FANO.**

**STEP 2: Application Submittal**

The MIZ PILOT application must be assembled according to FANO’s Pre-Application and Application which can be found on the FANO website. Incomplete applications will not be accepted. Twelve (12) copies of the application must be submitted no later than two weeks prior to the FANO Programs Committee meeting date. The applications should be delivered to:

**The Finance Authority of New Orleans  
201 St. Charles Avenue, Suite 4444  
New Orleans, Louisiana 70170**

**STEP 3: FANO Staff & FANO Underwriting Review and Recommendation**

Once the application is fully completed the application will be assigned a FANO Underwriting Committee meeting date where the FANO Underwriting Committee will consider the project and PILOT for recommendation to the FANO Board of Trustees programs committee (“Programs Committee”) and full board (“Board”) at the next regularly scheduled Programs Committee and Board meeting, respectively. Based on the application, Staff, in consultation with the Underwriting Committee, will prepare a report that will include a summary of its evaluation and its recommendation to the Program Committee and Board that the project be granted preliminary approval. This report, along with the application, will be sent to the Programs Committee and Board prior to its monthly meeting, respectively.

**ESTIMATED TIMING: Typically a 30-day period from date of submission of application, depending on timing of submission in the regular monthly meeting cycle.**

**STEP 4: Public Hearing and Deal Documents Prepared**

FANO Staff will hold a public hearing for proposed projects, which will serve as a forum for the FANO Board and public to review and comment on the proposed project. Members of the public wishing to make public comment may be limited to three (3) minutes per person.

**ESTIMATED TIMING: Typically a 14-day period from date of receipt of FANO Staff and Underwriting Committee reports, depending on timing of submission in the regular monthly meeting cycle.**

**STEP 5: FANO Programs Committee and Board Meeting – Final Approval**

The Programs Committee generally meets on the third Tuesday of every month at 2:00 pm. The Board generally meets on the third Tuesday of every month at 4:00 pm. Committee and board meeting notices and agendas are released on or before twenty-four (24) hours of the meeting date and time, in accordance with Louisiana Open Meetings Law. Meeting dates and times are subject to change based on availability of committee or board members. At this meeting, Staff and Underwriting Committee recommendations, a report on the public hearing and all other necessary consents, transactional documents and/or approvals will be made available to Programs Committee and the Board for consideration for final approval. The applicant, or an authorized representative, must be present. The Board may ask the applicant to make brief remarks regarding the project, at which time the Board may further ask questions of staff and the applicants before making decision on final approval.

The Board will approve, deny, or postpone a resolution for final approval of the application at this meeting. The Board reserves the right to deny or reject any application. The Board also has the right to approve any application based on certain conditions being met. Applicants will be notified in writing of the Board’s final resolution.

**ESTIMATED TIMING: Typically a 14-day period from date of receipt of FANO Staff and Underwriting Committee reports, depending on timing of submission in the regular monthly meeting cycle.**

## **STEP 6: Closing**

**TOTAL ESTIMATED TIMING: 60 to 90 DAY PROCESS**

### **B. PROCESS FOR PILOTS INCLUDING, MIZ, AFFORDABLE HOUSING, TAX CREDIT AND BOND FINANCING COMPONENTS**

#### **STEP 1: Initial Eligibility and Pre-Submittal Conference**

It is recommended that potential applicants contact FANO to evaluate their eligibility for the Program. FANO Staff will ensure that all eligibility criteria are met prior to submitting a universal application, which includes an application that is to be submitted to the Finance Authority and Louisiana Housing Corporation (“LHC”) for PILOT, tax credit and/or bond financing. If the potential applicant would like to move forward with the application process, FANO Staff will schedule a meeting with FANO’s Underwriting Committee prior to submission of the application. The Underwriting Committee has scheduled meetings on the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday of the month. The purpose of the Underwriting Committee meeting is to acquaint all parties with the scope of the project and any related issues. This meeting also serves to familiarize the applicant with the submittal and review process along with Program requirements and policies. The estimated eligible PILOT Term may be determined in this meeting.

**ESTIMATED TIMING: Typically within 30-day period from date of potential applicant’s initial contact with FANO.**

#### **STEP 2: Application Submittal**

Applications for PILOT, tax credit and/or bond financing must be assembled according to FANO’s Pre-Application and Application which can be found on the FANO website. Incomplete applications will not be accepted. Twelve (12) copies of the application must be submitted no later than two weeks prior to the FANO Programs Committee meeting date. The applications should be delivered to:

**The Finance Authority of New Orleans  
201 St. Charles Avenue, Suite 4444  
New Orleans, Louisiana 70170**

#### **STEP 3: FANO Staff & FANO Underwriting Review and Recommendation**

Once the application is fully completed, it will be assigned a FANO Underwriting Committee meeting date where the FANO Underwriting Committee will consider the project and PILOT for recommendation to the FANO Board of Trustees Programs Committee and Board at the next regularly scheduled Programs Committee and Board meeting, respectively. Based on the application, Staff, in consultation with the Underwriting Committee, will prepare a report that will include a summary of its evaluation and its recommendation to the Programs Committee and Board that the project be granted preliminary approval. This report, along with the application, will be sent to the Programs Committee and Board prior to its monthly meeting, respectively. FANO will also

submit the application and Underwriting Committee report to LHC for their initial review and underwriting process(es).

**ESTIMATED TIMING: Typically a 30-day period from date of submission of application, depending on timing of submission in the regular monthly meeting cycle.**

#### **STEP 4: FANO Programs Committee and Board Meeting – Preliminary Approval**

The Programs Committee will consider recommending the application for preliminary approval to the Board. The City of New Orleans shall receive advance notice of the Programs Committee and Board meetings where PILOTs are being considered for preliminary approval.

The Programs Committee generally meets on the third Tuesday of every month at 2:00 pm. Committee meeting notices and agendas are released on or before twenty-four (24) hours of the meeting date and time, in accordance with Louisiana Open Meetings Law. Meeting dates and times are subject to change based on availability of committee members. At this meeting, the application and Staff report will be made available for public viewing and comments. The Programs Committee will consider a recommendation to accept the Staff report and recommend consideration of the application for preliminary approval by the Board.

The Board generally meets on the third Tuesday of every month at 4:00 pm. Board meeting notices and agendas are released on or before twenty-four (24) hours of the meeting date and time, in accordance with Louisiana Open Meetings Law. Meeting dates and times are subject to change based on availability of board members. At this meeting, the application and Staff report will be made available for public viewing and comments. The applicant, or an authorized representative, must be present. The Board may ask the applicant to make brief remarks regarding the project, at which time the Board may further ask questions of staff and the applicants before making decision on preliminary approval.

**ESTIMATED TIMING: Typically a 14-day period from date of receipt of FANO Staff and Underwriting Committee reports, depending on timing of submission in the regular monthly meeting cycle.**

#### **STEP 5: Louisiana Housing Corporation Underwriting Process**

All applicants pursuing PILOTs coupled with tax credits and/or bond financing are subject to underwriting through the Louisiana Housing Corporation. At the applicant's expense, LHC will cause a market study, appraisal and other underwriting to be conducted and will produce a report that will provide: (a) a transparent financial analysis and evaluation of the Project and its feasibility. Thereafter and based on the findings, the underwriter would provide its findings and recommendations to FANO which may inform whether or not a PILOT as proposed is warranted or make an alternative recommendation for consideration.

**ESTIMATED TIMING: Typically a 60-day period from date of submission of application, depending on timing of submission in the regular monthly meeting cycle.**



**STEP 6: Louisiana Housing Corporation and State Bond Commission - Preliminary Approval**

All applicants pursuing tax credit incentives or bond financing for their projects must refer to the Louisiana Housing Corporation and State Bond Commission, respectively. FANO Staff will discuss tax credit and bond financing options with the applicant in the Pre-Submittal Conference. Please refer to their websites for more information regarding their respective preliminary approval processes.

Louisiana Housing Corporation (<https://www.lhc.la.gov>);

Louisiana State Bond Commission (<https://www.treasury.la.gov/state-bond-commission>).

**ESTIMATED TIMING: Typically a 30-day period from date of completion of underwriting process.**

**STEP 7: Public Hearing and Deal Documents Prepared**

FANO Staff will hold a public hearing for proposed projects, which serve as a forum for the FANO Board and public to review and comment on the proposed project. Members of the public wishing to make public comment may be limited to three (3) minutes per person.

**ESTIMATED TIMING: Typically a 30-day period from date of LHC and SBC Preliminary Approval.**

**STEP 8: FANO Board Meeting – Final Approval**

The Board generally meets on the third Tuesday of every month at 4:00 pm. Board meeting notices and agendas are released on or before twenty-four (24) hours of the meeting date and time, in accordance with Louisiana Open Meetings Law. At this meeting, the recommendation of the cost-benefit evaluator, Staff recommendation and a report on the public hearing and all other necessary consents and/or approvals will be made available to the Board for consideration for final approval. The applicant, or an authorized representative, must be present. The Board may ask the applicant to make brief remarks regarding the project, at which time the Board may further ask questions of staff and the applicants before making decision on final approval.

The Board will approve, deny, or postpone a resolution for final approval of the application at this meeting. The Board reserves the right to deny or reject any application. The Board also has the right to approve any application based on certain conditions being met. Applicants will be notified in writing of the Board’s final resolution.

**ESTIMATED TIMING: Typically a 30-day period from date of LHC and SBC Preliminary Approval. May be on same day as scheduled public hearing.**

**STEP 9: Louisiana Housing Corporation and State Bond Commission – Final Approval**

Please refer to the Louisiana Housing Corporation and Louisiana State Bond Commission websites, respectively, for more information regarding their respective final approval processes. Louisiana Housing Corporation (<https://www.lhc.la.gov>); Louisiana State Bond Commission (<https://www.treasury.la.gov/state-bond-commission>).

**ESTIMATED TIMING: Typically a 30-day period from date of FANO final approval, depending on timing of submission in the regular monthly meeting cycle.**

**STEP 10: Closing and Bonds Delivered (if applicable)**

**TOTAL ESTIMATED TIMING: 6-9 MONTH PROCESS**

**POST PILOT APPROVAL**

The following steps only apply if the FANO Board has approved the respective applications for the project.

**1. Closing**

The following must be provided at closing:

- Phase I Environmental Assessment.
- Liability insurance on the property with \$3,000,000 in coverage. If the project is valued at less than \$1,000,000, then only \$1,000,000 in coverage is required.

The deadlines and related policies for approved applicants are as follows:

- After approval by the Board, the applicant will have up to one year to close a PILOT lease.
- If the lease has not been closed within one year, an applicant may request a one-year extension, subject to the \$2,500 extension fee.
- Projects are limited to one extension, and the extension fee shall not be credited against the closing fee.
- If a PILOT does not close prior to the termination of the extension period, the project must be resubmitted, reviewed, and approved by FANO.
- All PILOT leases will be closed in the name of the applicant or party designated in the application as the owner of the project. Prior approval of the FANO Board will be required for substitution of another party as lessee under any PILOT lease upon closing thereof.
- Upon closing, title transfer will occur and the tax-freeze will be registered with the City’s Tax Assessor.
- If the applicant abandons the project and leaves it not cared for and unoccupied for more than 60 days, or as stipulated in the lease, the PILOT may be terminated.

## **2. Project Completion**

Upon completion of any project subject to a PILOT lease, the project shall be reviewed to determine if the project was completed as set forth in the application with respect to such plans and specifications approved by FANO. If the project as completed would have received a PILOT lease of fewer years than granted to the proposed project, the term of the PILOT lease may be reduced appropriately.

## **3. Payments in Lieu of Taxes**

Failure to pay any payments in lieu of taxes for property under a PILOT lease can result in termination of the lease. Written notification of any delinquent payments will be sent to the lessee and its lenders by certified mail. The lessee must pay the delinquent payments in lieu of taxes within 30 days of receipt of the notice (or such later date as is provided for the lessee's lender to cure). If the lessee or its lenders fail to pay the delinquent payments in lieu of taxes in the time period provided in the notice, FANO can terminate the lease or take any other action to enforce the lien for delinquent payments in lieu of taxes.

## **4. Assignment of Lease**

No PILOT lease may be assigned prior to the completion of the project without the approval of the FANO Board.

The sale, transfer, or assignment of the lessee's interest in a PILOT lease may require the approval of FANO. If so, a fee equal to one percent of the project value shall be due in connection with such approval.

### **Assignment of leasehold interest upon foreclosure:**

*In the event a lender holding a deed of trust or mortgage on the leasehold interest of a PILOT lease shall foreclose thereon or accept an assignment or deed in lieu of foreclosure of the lessee's interest there under, such foreclosure or assignment or deed in lieu thereof shall not be considered an assignment of the PILOT lease by this Corporation and shall not be subject to any consent or approval by this Corporation (to the extent required by the terms of the PILOT lease) nor shall any transfer fee be due and payable in connection therewith, so long as such lender holds the leasehold interest in the PILOT lease for resale and not for investment purposes. In the event a lender has succeeded to the rights of the lessee under the PILOT lease as a result of foreclosure or assignment or deed in lieu thereof, any subsequent assignment of the rights as lessee under the PILOT lease shall be subject to any required consent of this Corporation and the payment of any transfer fees due and payable in connection therewith. For the purposes of these policies, a lender shall be deemed to hold property for investment purposes and not for resale, and a transfer fee shall be due and payable, if it has held property for more than 18 months.*

