



CITY COUNCIL

May 15, 2023

Work Session

1. Call to Order – 5:30 P.M. – City Council Chambers
2. Recitation – Pledge of Allegiance to the Flag of the United States of America
3. Roll Call
4. New Business – Discussion on draft Economic Development Incentive Policy
5. Public Comment
6. Adjournment

Alternatively, join the meeting via the Zoom platform

<https://us02web.zoom.us/j/89960902573>

Meeting ID: 899 6090 2573

+1 646 558 8656 US (New York)

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Persons interested in addressing the City Council during the meeting under public comment period can press the "raise hand" button or send a chat message in Zoom or by phone press *9.

Public meetings are being monitored and violations of statutes will be prosecuted.



BOARD: City Council

MEETING DATE: May 15, 2023

PREPARED: May 11, 2023

AGENDA SUBJECT: Economic Development Incentive Policy Draft

RECOMMENDATION: Work Session Discussion

Background City Council has discussed the need for an Economic Development Incentive Policy that aligns with City Council priorities and assists in addressing community needs. The purpose of the draft was to initiate a discussion that may determine how best to evaluate projects for potential incentives.

Discussion For this draft version, I have eliminated any scoring matrix but certainly could add this type of component back into the policy.

The draft policy attempts to capture project consideration criteria and priorities with thresholds, targeted objectives, and project evaluation factors for consideration. I have also listed the typical incentive programs that City Council would likely consider with a brief overview. I have included supporting documents for each program.

Action Review and discuss the policy and provide direction and input.

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Enclosures



City of Petoskey Economic Development Incentive Policy

Adopted _____

This policy will be used to evaluate requests for economic incentives that are fiscally responsible and provide long-term benefits to the community. The policy will be periodically reviewed to ensure it addresses current City priorities.

A. Intent

In order to facilitate public-private partnerships that benefit the community, the City of Petoskey will *consider* use of economic development incentives to encourage the development and redevelopment of commercial, mixed-use, or residential buildings and sites when it is demonstrated that the project would likely not occur without financial assistance or if the project furthers City priorities. In this effort, the Master Plan goals of providing year-round housing for all, maintaining and enhancing downtown, and redevelopment of vacant property and empty storefronts is encouraged and facilitated to the greatest extent possible are furthered.

The City of Petoskey is dedicated to building public/private partnerships between its citizens, developers, and regulatory agencies in order to return impaired properties to active, community-enhancing reuse.

B. Project Consideration

Requests for incentives will be prioritized when the property is located within the Downtown Development Authority boundary, Old Town Emmet Neighborhood, designated Priority Redevelopment Sites, and sites that are blighted or contain functionally obsolete structures. Projects that are not in these areas but make significant strides in meeting current City development priorities may also be considered.

This policy applies to all economic development incentives including, but not limited to, Obsolete Property Rehabilitation Act (OPRA), Neighborhood Enterprise Zones (NEZ), Payment in Lieu of Taxes (PILOT), Brownfield Tax Increment Financing (TIF), Community Development Block Grants (CDBG), Residential Housing Exemption, and direct public investment through infrastructure expenditures or fee waivers.

Priority projects for incentive consideration shall meet the following criteria:

1. The project will likely not occur without development incentives.
2. The project provides economic, environmental, and social benefits consistent with the goals of the City Master Plan.
3. Any project with residential units shall have _____% of units 60-80% AMI, and _____% of units at 80-120% AMI.
4. Any project with residential units will have a restriction placed that the units will be for year-round housing¹ for no less than ten (10) years or the term of the incentive, whichever is longer.
5. The incentive duration will be the shortest possible for project viability.

¹ Year-round housing is defined for the purposes of this policy as no less than 10 months a year.

6. The applicant is current on all property taxes, fees, utilities and other financial obligations levied against it by the City of Petoskey, and shall remain current during the term of the approved exemption.

An evaluation of the project according to the project contributing to the below listed priorities will be completed by the Office of City Planner and reported to City Council for its decision. The incentive term is at the discretion of City Council, with demonstrated financial need to achieve one or more City priorities a primary determinant.

C. Targeted Objectives

1. Develop a clear process and policy for application and financial review of all incentive requests.
2. Provide City Council with consistent method for measuring the total cost to the City, quality of the proposed development, and measurable public benefits intended to result from local incentives.
3. Ensure that development proposals clearly articulate why an incentive is necessary and what public value that incentive is expected to produce.
4. Establish S.M.A.R.T. evaluative tools (Specific, Measurable, Attainable, Relevant, and Time-based) to track return on investment.

D. Project Evaluation

The following factors will be used to help guide decision making for a project's potential incentive request:

- The local incentive would serve as a match to a public or private grant.
- The project serves the target residential market including low-moderate income (60-80% AMI), workforce (80-120% AMI), mixed income, and market rate.
- For downtown projects, a letter of façade consistency with the Downtown Design Guidelines is obtained from the Downtown Design Committee.
- Use and incorporation of green technologies.
- The project will enable the improvement or creation of public infrastructure such as a parking structure, non-motorized facilities, utility improvements, renewable energy or green storm water infrastructure.
- The project is an improvement to an otherwise blighted or underutilized site.

E. Incentive Programs

The City of Petoskey is willing to consider and utilize the following tools and programs to support investments:

- Brownfield Tax Increment Financing – Act 381
- Neighborhood Enterprise Zones (NEZ)
- Payment in Lieu of Taxes (PILOT)
- Obsolete Property Rehabilitation Act (OPRA)
- Commercial Rehabilitation & Commercial Redevelopment Acts
- Community Development Block Grants (CDBG)
- Residential Housing Exemption

Brownfield Tax Increment Financing – Act 381

Uses tax increment financing (TIF), to reimburse brownfield related costs incurred while redeveloping contaminated, functionally obsolete, blighted or historic properties. The cost of certain eligible activities may be reimbursed through the capture of taxes on the increased taxable value resulting from the development. This tax capture can apply to both local and state property taxes with approval from MEDC and EGLE. Eligible activities may include:

- Environmental Assessments
- Response Activities
- Due Care Plans
- Remediation and Engineered Controls
- Asbestos and Lead Based Paint Abatement
- Demolition
- Public Infrastructure
- Site Preparation
- Site Improvements

Neighborhood Enterprise Zones (NEZ)

The program provides a tax incentive for new development and rehabilitation of residential housing. A qualified local unit of government may designate one or more areas as a NEZ within that unit of government.

The City may reduce the taxes on property for 6-15 years in designated zones to promote the revitalization of those neighborhoods, subject to review and approval of the State Tax Commission.

An NEZ must contain not less than 10 platted parcels of land which are compact and contiguous. The NEZ may be utilized on all rental units or homestead units, but not on commercial elements/non-housing elements within a development.

The NEZ provides for public/private partnership in securing rental apartments that would have a mixed-income levels from 60%-120% of the Area Median Income (AMI) as determined annually by the Michigan State Housing Development Authority (MSHDA) for the City of Petoskey.

Payment in Lieu of Taxes (PILOT)

A PILOT is an investment incentive negotiated between a tax authority and a developer to establish agreed upon payment each year in place of property taxes. Housing development PILOT's are typically multi-year agreements with payments based upon a percentage of net collected rents.

The City of Petoskey may consider the use of the Payment in Lieu of Tax (PILOT) program to support an applicant's pursuit of funding through MSHDA. City review shall include the following:

- Staff review shall include a complete financial analysis of the applicant's proposed project including the final proforma as submitted to MSHDA.
- Priority shall be given to projects which provide for year-round affordable/workforce housing.
- City may hire an independent third party to conduct a financial review of the proposed project and may require the applicant to provide up to a \$5,000 escrow to fund any activities associated with the independent financial review of their proposal.

Obsolete Property Rehabilitation Act (OPRA), Commercial Rehabilitation, and Commercial Redevelopment Act

The State of Michigan has enabled local units, under specified circumstances to abate a portion of the local taxes for a limited period of time. Each of these enabling statutes functions in generally the same manner and for a time period of 6-12 years depending on the determination of the City. Each statute has specific eligibility criteria and detailed instructions as to how an abatement may be provided.

The City of Petoskey may consider a tax abatement, up to the full allowable term in cases where a minimum 25% of the units are maintained as year-around housing earning 80-120% AMI or less for the term of the abatement or greater.

Community Development Block Grants (CDBG)

Under the CDBG Program, all projects must meet one of the following National Objectives to be considered for funding:

- Benefit persons of Low and Moderate Income (LMI)
- Prevention or elimination of blight
- Urgent Need projects – pose a serious or immediate threat to the health and welfare of the community

Examples of eligible activities are: housing acquisition and rehabilitation, public services, and public facilities that benefit low to moderate income populations.

Residential Housing Exemption – PA 237 of 2022

Provides a tax incentive to owners of rental housing property of more than four units to enable renovation and expansion of aging facilities and assist in the building of new facilities. A Residential Housing Exemption Certificate (RHEC) entitles the facility to property tax abatement if the unit is rented to an income-qualified household (less than 120% AMI) and the rent/lease amount is no more than 30% of the household modified income. This incentive has a term of 1-12 years as determined by the local governmental unit.

Act 381 Brownfield Tax Increment Financing

Tax Increment Financing (TIF) is a powerful funding tool that can help cover additional costs associated with redeveloping a brownfield property. The premise of brownfield TIF is simple:

- When a vacant, blighted, contaminated, or otherwise challenged property is redeveloped it becomes more valuable.
- The increase in value results in an increase in property taxes paid to the municipality, school district, or other taxing authorities for that property.
- The additional tax paid due to the increased property value is referred to as the increment.
- The increment is “captured” by the taxing authority and used to reimburse the developer for the cost of addressing brownfield conditions on the property during construction.
- The brownfield activities eligible for reimbursement are defined in the Brownfield Redevelopment Financing Act (Act 381). They require local and sometimes state approval.
- Once the developer has been reimbursed for the approved eligible brownfield activities on a project, the taxing authority begins retaining all taxes collected for the property, fully realizing the increase in tax revenue from the development.

LOCAL APPROVAL

All projects seeking to use Act 381 TIF must prepare a Brownfield Plan for the project. The plan must identify the brownfield activities to be performed as well as the estimated taxes to be generated and captured. The plan must be approved by the local unit of government and the local Brownfield Redevelopment Authority (BRA). Public hearings and notifications are required as part of this process.

STATE APPROVAL

Projects seeking to capture state education and school operating taxes must submit an Act 381 Work Plan to the appropriate state agency for approval. The Act 381 Work Plan must include a copy of the locally approved Brownfield Plan. Environmental activities typically associated with known or suspected soil and groundwater contamination require review and approval by the Michigan Department of Environment, Great Lakes, and Energy (EGLE). Non-environmental brownfield activities including demolition, site work, and infrastructure are reviewed by the Michigan Economic Development Corporation (MEDC).



ELIGIBLE ACTIVITIES

Activities reviewed by EGLE can be divided into two categories:

1. Activities that require approval to use state taxes **before** they take place, including:
 - Due Care Activities
 - Documentation of due care compliance
 - Activities performed to make the property safe for its intended use, such as removing contaminated soil or installing vapor mitigation systems or exposure barriers
 - Response Activities
 - Remediation Activities
 - Demolition; lead, mold, and asbestos abatement under some circumstances
 - And many more (refer to the [Act 381 Work Plan Guidance](#) for additional eligible environmental activities)
2. Exempt activities that can take place **prior** to or without approval to use state taxes, including:
 - Phase I and Phase II Environmental Site Assessments and Baseline Environmental Assessments (BEAs)
 - Asbestos, mold, and lead surveys; hazardous materials and pre-demolition surveys
 - Due care investigations, planning, and reporting

Reach out to your [local EGLE Brownfield Coordinator](#) to discuss a specific project.

USING TIF WITH OTHER EGLE BROWNFIELD INCENTIVES

EGLE Brownfield Loans are often used in conjunction with Brownfield TIF. EGLE loans can provide the capital often needed on the front end of development projects. The loans provide a 5-year payment-free and interest-free grace period to help with the back end of a project. The 5-year window is typically sufficient time to complete the development and generate a tax increment large enough to cover the amount of the loan payment.

EGLE Brownfield Grants can be used with Brownfield TIF. However, grant-funded activities must be clearly identified and separated from activities that will utilize Brownfield TIF to ensure the developer is not being reimbursed for costs that were paid for with the EGLE grant.

CONTACT US

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NEIGHBORHOOD ENTERPRISE ZONE (NEZ)

The Neighborhood Enterprise Zone (NEZ) program was established by Public Act 147 of 1992, as amended. The program provides a tax incentive for the development and rehabilitation of residential housing. A qualified local unit of government may designate one or more areas as a NEZ within that local unit of government. The program was established to spur the development and rehabilitation of residential housing in communities where it may not otherwise occur. The program also encourages owner-occupied housing and new investment in communities.

Note: This document is offered as a general guide only and the legislation should be reviewed by local officials.

WHO IS ELIGIBLE?

A qualified local unit of government, as defined under Section 2 of the Obsolete Property Rehabilitation Act 2000 PA 146, or a county seat.

HOW DOES IT WORK?

A community will reduce the taxes on property for up to 15 years in designated areas to promote the revitalization of those neighborhoods. Developers and owners must first seek approval for the NEZ benefits before starting a project. There are two different types of projects that can be undertaken in an NEZ:

- A rehabilitated facility is defined as an existing structure or a portion of an existing structure with a current true cash value of \$80,000 or less per unit that has or will have as its primary purpose residential housing consisting of 1–8 units.
- A new facility is defined as a new structure or portion of a new structure that has as its primary purpose residential housing consisting of one or two units, one of which will be owner occupied as a principal residence. This definition includes a new individual condominium unit, in a structure with one or more condominium units, that has as its primary purpose residential housing which will be owner-occupied as a principal residence. Except when project meets all of the following items, a new facility does not include apartments:
 - Rented or leased or is available for rent or lease.
 - A mixed-use building or located in a mixed use building that contains retail business space on street level floor.
 - Located in a qualified downtown district (Downtown Development Authority, Principal Shopping District or boundaries identified by the local government in an area zoned and primarily used for business).

WHAT IS THE PROCESS?

Local government process to designate a NEZ

1. The governing body of a qualified local unit of government by resolution may designate one or more NEZs within that local governmental unit. The NEZ must contain, at a minimum, platted parcels of land and the land must be compact and

contiguous. Minimum number of parcels and maximum percent of acreage vary depending on type of designation.

2. Written notice is provided to the assessor and to the governing body of each taxing unit not less than 60 days before passing the resolution designating a NEZ.
3. The governing body makes a finding that the proposed NEZ is consistent with the master plan, neighborhood preservation and economic development goals of the local governmental unit.
4. The governing body adopts a statement of the local unit of government's goals, objectives and policies relative to the maintenance, preservation, improvement and development of housing for all persons regardless of income level living within the proposed NEZ.
5. The governing body passes a housing inspection ordinance that, at a minimum, requires that before the sale of a unit in a new or rehabilitated facility for which a NEZ certificate is in effect, an inspection is made of the unit to determine compliance with any local construction or safety codes and that a sale may not be finalized until there is compliance with those local codes.
6. The governing body holds a public hearing not later than 45 days after the date the notice is sent but before acting upon resolution.
7. Assessor determines and furnishes the governing body the amount of true cash value of the property located within the proposed NEZ and any other information considered necessary by the governing body.
8. The clerk of the governing body notifies the state tax commission of resolution passage, including a copy of the resolution and a listing of each parcel located in the NEZ, showing parcel code numbers and addresses.

Owner/developer process for obtaining a NEZ certificate

1. An owner or developer (or prospective owner or developer) of a proposed new facility or proposing to rehab property in a NEZ files an application for an NEZ certificate with the clerk of the local government. The application must be filed before a building permit is issued for the new construction or rehabilitation of the facility, unless they qualify for the exceptions provided for in Section 4 (2) of the Act.
2. An owner/developer obtains a building permit and submits a copy to the local unit of government
3. Upon project completion, the property owner must submit to the local unit of government the following:
 - » *New Facility/Homestead Facility*—certificate of occupancy and/ or an affidavit executed by the owner affirming that the facility is occupied by the owner as a principal residence.
 - » *Rehabilitated Facility*—an affidavit executed by the owner affirming that the facility is occupied by the owner as a principal residence, a certificate that the improvements have met the minimum cost requirements and the local building code standards issued by the local building inspector, and



a certificate of occupancy if required by the local building permits or codes.

4. The local government will forward an application approved by resolution and the appropriate documentation (building permit, resolution contractor estimates, legal description and parcel number) to the state tax commission within 60 days of receiving it.
5. The State Tax Commission will issue a certificate to the applicant if it is determined that the facility complies with the NEZ program requirements within 60 days of receipt of the complete application from local government. Copies of the certificate will be sent to the applicant, assessor's office and each affected taxing unit.

Rehabilitation cost requirements

- Improvements, if done by a licensed contractor, are estimated at more than \$5,000 per owner-occupied unit or 50 percent of the true cash value (whichever is less), or \$7,500 per non-owner-occupied unit or 50 percent of the true cash value (whichever is less).
- If the owner proposes improvements that would be done by the owner, the cost of the materials must be in excess of \$3,000 per owner-occupied unit or \$4,500 per non-owner-occupied unit. Improvements estimated by the owner should not include the cost of labor.
- These improvements must bring the structure into conformance with minimum building code standards. A rehabilitated facility does not include a facility rehabilitated with the proceeds of an insurance policy for property or casualty loss.

NEZ certificate

- The NEZ certificate becomes effective December 31 of the year the new facility or rehabilitated facility is substantially completed and for a new facility occupied by an owner as a principal residence; or if a new facility is substantially completed in a year but is not occupied by an owner as a principal residence until the following year, upon the request of the owner, the effective date of the NEZ shall be December 31 in the year immediately preceding the date of occupancy by the owner as a principal resident; or upon the request of the owner, the effective date of the NEZ for a rehabilitated facility shall be December 31 in the year immediately preceding the date on which the rehabilitated facility is substantially completed.
- Certificates are effective for up to 17 years, depending on the local government unit and the type of project.
- A certificate can be transferred to succeeding property owners within the 12 years provided that the new owner meets the NEZ requirements for the program.
- A certificate expires if an owner fails to complete the filing within two years after the certificate is issued.
- A certificate is automatically revoked if any one of the following exists:
 - » The new facility is no longer a homestead or residential facility.

- » The NEZ tax is not paid or property tax is not paid.
- » The structure is not in compliance with local construction, building or safety codes.

- Requests for certificate revocation must be made to the State Tax Commission.

NEZ Tax

- The NEZ tax is levied on NEZ certificate holders in place of ad valorem real property taxes on the new or rehabilitated facility (not on the land on which the facility is located). The property taxes levied on the land will continue to be collected as they would without the NEZ designation.
- The NEZ tax is an annual tax payable at the same time, and in the same way, taxes under the general property tax act are collected.
- Until paid, the NEZ tax is a lien on the real property upon which the new facility or rehabilitated facility subject to the certificate is located.
- School taxes are reimbursed by the state.

New facility property tax calculation

- Financial Residence Property: Apply one-half of the previous year's state average principal residence millage rate to the value of the facility.
- Non-principal Residence Property: Apply one-half of the previous year's state average non-principal residence millage rate to the taxable value of the facility
- The NEZ tax on new construction attached to an existing facility will only apply to the addition. The rest of the facility will continue to be assessed regular property taxes.

Rehabilitated facility tax calculation

- Apply the current total millage rate to the previous year's taxable value of the rehabilitated portion of the facility (not including the land).

WHY WOULD A COMMUNITY WANT TO ESTABLISH A NEZ?

A Neighborhood Enterprise Zone provides a tax incentive for the development and rehabilitation of residential housing and to spur the development and rehabilitation of residential housing in communities where it may not otherwise occur. A NEZ also promotes neighborhood revitalization, encourages owner occupied housing and new investment by lowering property taxes.

SUPPORTING STATUTE

Neighborhood Enterprise Zone Act: Public Act 147 of 1992

CONTACT INFORMATION

For more information, contact the Community Assistance Team (CAT) specialist assigned to your territory or visit www.miplace.org.

Frequently Asked Questions
Neighborhood Enterprise Zone (NEZ) Act
(1992 PA 147, as amended)

The following frequently asked questions are provided as a service to assessors and taxpayers to better inform them about the administration of 1992 PA 147, as amended by 2022 PA 238 (effective March 28, 2023).

Note: The information contained in these frequently asked questions constitutes an analysis of one or more statutes and not legal advice. Since the analysis is limited to general statutory requirements, individual facts may result in different conclusions being reached. Therefore, individuals may wish to consult legal counsel.

1. What is a Neighborhood Enterprise Zone (NEZ) Exemption?

Prior to 2022 PA 238, the Neighborhood Enterprise Zone Act, 1992 PA 147, as amended, provided tax exemptions for the development and rehabilitation of residential housing located within a qualified local government as defined in the Obsolete Property Rehabilitation Act (2000 PA 146). The local governmental unit (LGU) in these qualified local governments could designate areas as NEZs. Under 2022 PA 238, all townships, cities, and villages can designate an NEZ if the zone meets criteria explained in Answer 3. Only facilities located within these established NEZs are eligible for NEZ certificates. New and rehabilitated facilities applications are filed, reviewed, and approved by the LGU, but are also subject to review by the Department of Treasury. The State Tax Commission (STC) is responsible for final approval and issuance of new and rehabilitated facility certificates. Exemptions for new and rehabilitated facilities are not effective until approved by the STC. NEZ Homestead applications are filed, reviewed, and approved by the LGU.

2. Who determines when and where to establish an NEZ?

An LGU that seeks to facilitate the development and rehabilitation of residential housing may establish one or more NEZs. The LGU determines the areas to be established as an NEZ. Each NEZ must contain not less than 10 platted parcels of land that are compact and contiguous, or if located in a downtown revitalization district may contain less than 10 platted parcels if the platted parcels together contain 10 or more facilities. An NEZ or combination of NEZs containing only new facilities, rehabilitated facilities, or a combination of both shall not exceed 15% of the total acreage contained within the LGU boundaries. An NEZ or combination of NEZs containing only homestead facilities shall not exceed 10% of the total acreage contained within the LGU boundaries; provided that, if approved by the county board of commissioners or a county executive of a county that has an elected or appointed county executive, the homestead facility NEZ or combination of NEZs can contain up to 15% of the total acreage of the LGU.

Frequently Asked Questions
Neighborhood Enterprise Zone (NEZ) Act
(1992 PA 147, as amended)

3. What is the difference between an OPRA-qualified NEZ, a Workforce Housing NEZ, and a Neighborhood Enterprise “Homestead” Zone?

An OPRA-qualified NEZ covers new facilities and/or rehabilitated facility projects designated by a qualified LGU as defined in the Obsolete Property Rehabilitation Act (OPRA), 2000 PA 146. A Workforce Housing NEZ covers new facilities and/or rehabilitated facility projects designated by a township, city or village that is not on the current list of OPRA-qualified LGUs. A Neighborhood Enterprise “Homestead” Zone can include only certain pre-existing residential property, located within a subdivision platted pursuant to state law before January 1, 1968.

For a Workforce Housing NEZ and for a Homestead NEZ not located in an OPRA-qualified LGU, the LGU must determine that both of the following are met:

- (i) The NEZ designation encourages compact development, and the neighborhood enterprise zone contains 5 or more existing residential units per acre at the time of designation.
- (ii) The NEZ is adjacent to existing development, can utilize existing infrastructure, and has access to municipal water and sewer services on at least 1 frontage.

When a Workforce Housing NEZ is created by the LGU, a resolution approving the creation of the Workforce Housing NEZ must be approved by the LGU in concordance with statutory requirements. The resolution should include:

1. Language outlining the requirement that the certificate holder for a Workforce Housing NEZ provide information each year to the LGU on which portion of the facility is occupied by “an individual, couple, family, or group of unrelated individuals with a combined adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan state housing development authority...(MCL 207.773(7)).”
2. Language affirming the LGU will use the annual reporting described in (1) to adjust the specific tax for those units that exceed the income limit to “the full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt (MCL 207.773(7)).”

4. Who can apply for an NEZ Exemption Certificate?

Unless otherwise provided by the LGU, an owner or developer must file an application for an NEZ Certificate, Form 4775, for a “new” or a “rehabilitated” facility project within an NEZ **before** a building permit is issued. If provided for by the LGU by resolution an application may be filed not later than six months following the date the building permit is issued (see MCL 207.774 for details).

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Neighborhood Enterprise Zone (NEZ) Act
(1992 PA 147, as amended)

A homeowner of a principal residence within an NEZ may file an application for NEZ "Homestead" Certificate, Form 2704B.

5. How do I apply for an NEZ Certificate?

An application for the NEZ Certificate can be found at the Michigan Department of Treasury website: www.michigan.gov/propertytaxexemptions.

New or Rehabilitated Facility:

The application and required attachments are filed with the LGU clerk in which the facility is located. The LGU clerk reviews the application package and if complete, submits the application package to the local governing body for approval or denial by resolution. If approved, the application package, including a copy of the LGU resolution approving the application and setting the number of years the exemption is approved, is sent by the LGU clerk to the STC for further processing. The STC, upon receiving a complete application, will take action to approve or deny the issuance of a certificate of exemption. Exemptions are not effective until approved by the STC. Until the exemption becomes effective, the building remains subject to ad valorem taxes instead of the specific tax imposed under the NEZ Act.

Following completion of the construction or rehabilitation described in the application, additional required information that must be submitted usually includes:

New Facility:

- a. A copy of the legal description of the real property with the parcel identification number of the property for each building or condominium unit being built;
- b. A clear and legible copy of the building permit, when issued;
- c. A copy of the new owner's deed showing ownership with the date it was executed and required signatures;
- d. A copy of the Certificate of Occupancy and Compliance when issued; and
- e. if the New Facility is eligible for an NEZ Certificate on the basis of being occupied as a principal residence, a copy of the Principal Residence Exemption (PRE) Affidavit (Form 2368), filed with the LGU assessor (black out Social Security Numbers).

Frequently Asked Questions
Neighborhood Enterprise Zone (NEZ) Act
(1992 PA 147, as amended)

Rehabilitated Facility:

- a. Documentation providing the cost requirements of MCL 207.772(m);
- b. A copy of the legal description of the real property with the parcel identification number of the property for each house/condo being built or rehabilitated;
- c. A clear and legible copy of the building permit or trade permit, when issued;
- d. A copy of the new owner's deed showing ownership with the date it was executed and required signatures; and
- e. A Certificate of Occupancy and Compliance, when issued, or documentation from the local building official certifying that the building meets minimum LGU building codes.
- f. If applicable, a statement of whether the certificate holder elects that the effective date of the NEZ Certificate shall be the December 31 in the year preceding the date of the substantial completion of the rehabilitated facility.

When a facility with an existing NEZ certificate is purchased and/or transferred the certificate may be eligible for transfer to the new owner by submitting an application, Form 4775, with the revised information and a copy of the new owner's deed directly to the Department of Treasury. Additional documentation may be required.

Homestead Facility:

The application and required attachments are filed with the LGU clerk in which the facility is located. The LGU clerk reviews the application package and if complete, submits the application package to the local governing body for approval or denial by resolution. If "approved," the application package, including a copy of the LGU resolution approving the application and setting the number of years for exemption, is sent by the LGU clerk to the LGU assessor for further processing. The LGU assessor, upon receiving a complete application, will take action to approve or deny the issuance of a certificate of exemption. Exemptions are not effective until approved by the LGU assessor.

Additional required attachments include:

Frequently Asked Questions
Neighborhood Enterprise Zone (NEZ) Act
(1992 PA 147, as amended)

- a. A copy of the legal description of the real property with the parcel identification number; and
- b. A copy of the Warranty Deed or Document of Conveyance.

6. Are there provisions in the application process which are time sensitive?

Yes. An application for a NEZ Certificate must be filed with the LGU clerk for a facility located in an established NEZ before a building permit is issued for the new construction or rehabilitation of the facility. In some cases, an application would still qualify despite the building permit being issued before the Form 4775 was filed (See MCL 207.774 for specific details).

7. Who determines if a facility qualifies for a NEZ Certificate?

Initially, the determination is made when the application is filed and reviewed by the LGU. However, the LGU's determination is reviewed and either approved, modified, or denied by the STC.

8. Can an application for a NEZ Certificate be denied?

Yes. An application can be denied by the LGU or STC if the applicant did not meet all of the requirements of 1992 PA 147, as amended.

9. Can a decision of the STC regarding a NEZ Certificate be appealed?

Yes. A party aggrieved by the issuance, refusal to issue, revocation, transfer or modification of an NEZ exemption may appeal a final decision of the STC by filing a petition with the Michigan Tax Tribunal (MTT), within 35 days (See MCL 205.735a(6) and www.michigan.gov/taxtrib for specific details).

10. What is the term of an NEZ Exemption Certificate?

New, rehabilitated, and homestead facilities may receive a term of exemption from 6-15 years.

“Rehabilitated facilities in a qualified historic building” may receive a term of exemption from 11-17 years. However, if all or a portion of the rehabilitated facility in a qualified historic building is not transferred or sold to a person who will utilize the facility as his/her principal residence within 12 years of the effective date of the NEZ Certificate, the certificate is revoked.

11. What determines the starting date of an NEZ Certificate for “new” and “rehabilitated facilities”?

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The NEZ Certificate effective date is December 31st in the year that the new facility or rehabilitated facility is substantially completed and for a new facility approved as a principal residence, is occupied by an owner as a principal residence.

In certain circumstances, the owner of a “new facility” can request the effective date of the NEZ Certificate to be December 31st in the year immediately preceding the date of occupancy by the owner as a principal residence.

Upon the request of an owner of a “rehabilitated facility,” the effective date of the NEZ Certificate shall be December 31st in the year immediately preceding the date the rehabilitated facility is substantially completed.

12. How is the NEZ tax computed for a “rehabilitated facility”?

A parcel of property with an NEZ Certificate for a “rehabilitated facility” will have two assessments. The land will be assessed on the regular ad valorem assessment roll, while the building will have an assessment on the NEZ specific tax roll.

The property’s land assessment on the ad valorem roll may be adjusted by the March Board of Review. However, the NEZ tax roll assessment of a property with a “rehabilitated” certificate CANNOT have its assessment altered by the Board of Review during the life of the certificate.

For rehabilitated facility certificates issued after December 31, 2005:

The NEZ tax is determined by multiplying the total mills collected under the general property tax act by the taxable value of the “rehabilitated facility”, not including land, for the tax year immediately preceding the effective date of the certificate, until the last three years before the certificate expires.

During the last three years of the term of the extended certificate, the tax calculation changes to the following:

In the tax year two years before the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **five-eighths (5/8)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

In the tax year one year before the certificate expires, the NEZ tax is the sum of:

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- a. the current taxable value of the facility, excluding land, multiplied by **three-fourths (3/4)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

In the tax year the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **seven-eighths (7/8)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

NOTE: For a part of a rehabilitated facility in a Workforce Housing NEZ that in the prior year was occupied by an individual, couple, family, or group of unrelated individuals with a combined adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan State Housing Development Authority on its website, the specific tax paid in lieu of taxes for the year for that part of the facility must be equal to the full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt.

13. How is the NEZ Tax computed for a “new facility”?

A parcel of property with an NEZ Certificate for a “new facility” will have two assessments. The land will be assessed on the regular ad valorem assessment roll, while the building will have an assessment on the NEZ specific tax roll.

Both the property’s land assessment on the ad valorem roll and the NEZ tax roll assessment of a property with a “new facility” certificate may be adjusted by the March Board of Review.

For new facility certificates issued after December 31, 2005:

The NEZ tax is determined by multiplying one-half (1/2) the PRE state average mills levied in this state in the immediately preceding calendar year by the taxable value of the “new facility,” not including land, until the last three years before the certificate expires.

During the last three years of the term of the extended certificate, the tax calculation changes to the following:

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In the tax year two years before the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **five-eighths (5/8)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

In the tax year one year before the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **three-fourths (3/4)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

In the tax year the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **seven-eighths (7/8)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

NOTE: For a part of a new facility in a Workforce Housing NEZ that in the prior year was occupied by an individual, couple, family, or group of unrelated individuals with a combined adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan State Housing Development Authority on its website, the specific tax paid in lieu of taxes for the year on that part of the facility must be equal to the full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt.

14. How is the NEZ tax computed for a “Homestead facility?”

The NEZ tax for a “homestead facility” NEZ Certificate (issued for a term of 6-15 years), except for the last three years in which the certificate is in effect, is the sum of:

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- a. the current taxable value of the facility, excluding land, multiplied by **one-half (1/2)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

During the last three years of the certificate, the tax calculation changes to the following:

In the tax year two years before the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **five-eighths (5/8)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

In the tax year one year before the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **three-fourths (3/4)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

In the tax year the certificate expires, the NEZ tax is the sum of:

- a. the current taxable value of the facility, excluding land, multiplied by **seven-eighths (7/8)** the number of mills levied by the LGU and the county for operating purposes (excluding debt), plus
- b. the taxable value of the facility, excluding land, multiplied by the remaining total mills levied as ad valorem taxes.

NOTE: For a part of a homestead facility in an LGU that is not an OPRA-qualified LGU that in the prior year was occupied by an individual, couple, family, or group of unrelated individuals with a combined adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan State Housing Development Authority on its website, the specific tax paid in lieu of taxes for the year for that part of the facility must be equal to the

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full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt.

15. How many tax bills will I receive?

In both July and December, you will receive two tax bills: one for the structure with the NEZ Certificate with tax calculated based upon the NEZ specific tax, and one for the land with tax calculated at the full ad valorem millage rate.

16. What are the different types of NEZ Certificates?

There are three types of NEZ Certificates:

“New facility” is an exemption for a new structure or portion of a new structure, the primary purpose of which is residential housing which will be occupied by its owner as his/her principal residence, certain apartment buildings in qualified downtown revitalization districts, and certain model homes and model condominium units.

“Rehabilitated facility” is an exemption for an existing structure or a portion of an existing structure, the primary purpose is residential housing which can be owner or non-owner occupied, meeting specific requirements for improvement investment and true cash value.

“Homestead facility” is an exemption for an existing structure, purchased by or transferred to an owner after December 31, 1997, the primary purpose of which is residential housing occupied by the owner as his/her principal residence and is located within a subdivision platted pursuant to state law before January 1, 1968.

17. Are minimum investments for improvements required?

New facilities have no minimum or maximum investment required.

Rehabilitated facilities, for an existing structure with a current true cash value (TCV) of \$120,000 or less per unit (adjusted for inflation), a minimum investment (all adjusted for inflation) is required:

- a. if the rehabilitation is completed by a contractor, \$10,000 per owner-occupied unit or 50% of the TCV, whichever is less, or \$15,000 per non-owner-occupied unit or 50% of the TCV, whichever is less; and
- b. if the improvements are completed by the owner, \$3,000 per owner-occupied unit or \$4,500 per non-owner-occupied unit.

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Homestead facilities require an owner committed to investing a minimum of \$500 in the first 3 years of the term of the certificate.

18. Can the ending date of an NEZ Certificate be changed after it is issued by the STC?

Yes. An NEZ Certificate must be issued by the STC for the number of years granted by the local governmental unit's resolution of approval. The Property Services Division staff determines the ending date of a certificate by the language in the LGU resolution approving the application. If an NEZ Certificate was issued before January 1, 2006, the LGU may, by resolution, extend the certificate for an additional 3 years, up to a maximum of 15 years (or 17 years for a rehabilitated facility in a qualified historic building), before the original certificate expires.

19. Can I get a refund for a portion of the prior year's taxes that I have already paid after I get an NEZ Certificate?

Perhaps. The "new" or "rehabilitated" type certificate may be issued for a previous tax year. Check with the LGU to ascertain if a refund is due.

The answer is NO for "homestead" certificates as the effective date begins December 31st of the year in which the certificate is approved and does not exempt previous tax years.

20. What happens when an incomplete application for an NEZ Certificate is received?

For new and rehabilitated facilities, the applicant will be contacted to submit the required items. If the required items are not submitted within 30 days, the application may be dismissed as inactive.

21. If I have an existing home, a newly-built home, or a recently rehabilitated home in an NEZ, but have never applied for an exemption, will my home qualify?

Perhaps. For eligibility of homestead facilities, check with the LGU. For eligibility of new or rehabilitated facilities, check with the Property Services Division.

22. Is there a limit on the amount of time that an applicant can take to complete a project?

Yes. MCL 207.781 states that a certificate shall expire if, as to NEZ certificates issued prior to 2017, the owner fails to complete the filing requirements under Section 10 within 2 years of the date the certificate was issued or, as to NEZ

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certificates issued after 2016, the owner fails to complete the filing requirements under Section 10 within 3 years of the date the certificate was issued. The holder of the certificate may request in writing to the STC by no later than 1 year after the applicable filing deadline, a 1-year automatic extension of the 2-year or 3-year deadline if the owner has proceeded in good faith with the construction or rehabilitation of the facility in a manner consistent with the purposes of this act and the delay in completion or occupancy by an owner is due to circumstances beyond the control of the holder of the certificate. In addition, an additional 180-day extension of the filing deadline may be requested within one year of the deadline in the case of an NEZ certificate issued prior to March 23, 2020. Upon the request of the governing body of the LGU, the deadline shall be extended for a new facility that has not been occupied. The certificate holder will receive notice of the expiration date when the certificate has been approved, but before the Section 10 requirements are met.

23. I received a notice that my NEZ Certificate was approved but has been held in abeyance. What does that mean?

Upon initial review of the application and the supporting documentation, the STC may approve the issuance of an NEZ certificate subject to the subsequent submission of additional documentation demonstrating compliance with the requirements of Section 10 by no later than the deadlines described in Question 22. Upon the STC's approval of the submitted additional documentation, the STC will direct that the facility be added to the NEZ tax rolls.

24. Can an NEZ Certificate be transferred to a new owner?

Yes. If the homestead, new, or rehabilitated facility is sold or transferred to another owner who otherwise complies with the requirements of the act and, for a homestead or new facility qualified on the basis of being a principal residence, uses the facility as a principal residence, the certificate shall remain in effect.

A transfer of the certificate for a "new" or "rehabilitated facility", for the term remaining on the certificate, is initiated by filing Form 4775 with the Property Services Division. Transfers of certificates for "Homestead facilities" are handled by the LGU.

25. Can an NEZ Certificate be revoked? If yes, who holds the authority to do so?

Yes. An NEZ Certificate may be revoked if one of the following occurs:

- a. Written request is made to the STC (via certified mail) by the holder of the certificate;

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- b. The certificate for a “homestead facility” or a “new facility” qualified on the basis of being a principal residence is automatically revoked if the facility is no longer occupied by the owner as their principal residence.
- c. Delinquent taxes on either the NEZ tax or the ad valorem property tax.
- d. The “homestead”, “new” or “rehabilitated” facility ceases to have residential housing as its primary purpose.
- e. Noncompliance of local governmental unit’s local construction, building or safety codes.

26. When does the revocation of an NEZ Certificate take effect?

In most cases, the revocation of an NEZ Certificate is effective the December 31st of the year in which the STC revoked the certificate. However, if the certificate is automatically revoked because the homestead facility or new facility is no longer a homestead, the revocation is effective December 31st following the automatic revocation.

27. What is required of the LGU regarding the yearly status reporting of NEZ Homestead Certificates to the STC?

Not later than June 15th of each year, each qualified LGU granting NEZ Homestead Certificates shall report to the STC on the status of each exemption. The report must include the number of certificates issued, the date of issuance of each certificate, the name and address of the holder of each certificate, the legal description of the real property of the homestead facility for which each certificate was issued, and the taxable value for each homestead facility for which a certificate was issued. For each certificate that was transferred, the report must include the date of each transfer, the name and address of the former holder of the certificate, and the name and address of the current holder of the certificate. For each certificate that was revoked pursuant to Section 11, the report must include the reason for the revocation, the date of the revocation, and the name and address of the holder of each certificate that was revoked. The report must also contain the impact on neighborhood revitalization in the LGU, including the estimated tax savings for all new and current certificate holders.

28. Are there any other parties I may wish to notify after I receive the NEZ Certificate?

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1. Your mortgage company if your taxes are escrowed. The LGU treasurer's office to request their refund process, if applicable (new or rehabilitated facilities).
2. The county treasurer's office to verify the parcel identification numbers, verify that the land on the ad valorem tax roll and the residence on the NEZ specific tax roll have been adjusted and that the taxes have been paid in full.

29. Where can I obtain copies of previously issued NEZ Exemption Certificates?

Copies of certificates acted upon by the STC after January 1, 2013, are available on the Department of Treasury website at: www.michigan.gov/propertytaxexemptions. Choose the exemption program under which the certificate was issued. Within the "Certificate Activity" link, the certificates are listed according to the date they were acted upon.

30. Can parking improvements be included within a NEZ Certificate Application and are they eligible to receive the exemption benefits?

If the NEZ facility has parking improvements, these improvements can only receive the NEZ benefit if they are part of the same parcel as the facility. If the parking improvements are on a separate parcel, they are taxed on the ad valorem roll and do not receive the NEZ benefit.

Whether or not parking improvements are included on the main facility parcel, can be confirmed by the local governmental unit assessor.

31. For a facility not located in an OPRA-qualified LGU and occupied in part by a household with income over the limit described in answers 12 - 14, how is the required increase in the specific tax calculated?

For facilities not located in an OPRA-qualified LGU, the local assessor is required to prorate the facility's taxable value to each housing unit. The facility's owner/manager is required annually to report to the assessor which of the facility's housing units are occupied by households with combined adjusted household income at or below 120% of the countywide area median income as posted by the Michigan State Housing Development Authority on its website. The assessor shall sum the taxable value of the housing units at or less than the income limit and divide the total by the facility's taxable value. The assessor shall multiply the percentage of the facility's taxable value at or less than the income limit by the facility's NEZ tax and multiply the percentage of the facility's taxable value greater than the income limit by the facility's ad valorem property

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tax without the NEZ exemption. The sum of the two amounts is the facility's adjusted NEZ tax.

32. How is adjusted household income calculated?

As provided in MSHDA Rule 125.101:

(c) "Adjusted household income" means the gross annual income from all sources and before taxes or withholding of all members of a household living in a dwelling unit or housing unit after deducting all of the following:

- (i) Unusual or temporary income of any member of the household.
- (ii) Six hundred and fifty dollars for each member of the household.
- (iii) Earnings of a member of a household who is under 18 years of age or who is physically or mentally handicapped.
- (iv) Fifty percent of the income of a second adult wage earner jointly occupying the dwelling or housing unit whose individual income is less than that of the wage earner with the highest income.
- (v) The lesser of \$1,000.00 or 10% of the gross annual income.

As provided in MSHDA Rule 125.102:

(i) "Gross income," for determining eligibility, means all income derived from whatever source, as follows:

- (i) In computing gross income, all the income of the members of the household, other than minors, living in the same dwelling unit and contributing to the expenses of the household is to be considered. Gross income shall be computed without deduction for the following:
 - (A) Funds paid into a tax shelter retirement account.
 - (B) Losses attributable to a farming syndicate as described in section 464 of the internal revenue code, 26 U.S.C. §464.
 - (C) Losses attributable to any type of corporation or partnership engaged in exploring for or exploiting oil and gas resources.
 - (D) Losses attributable to any type of corporation or partnership engaged in equipment leasing.
 - (E) Losses attributable to any type of corporation or partnership engaged in holding, producing, or distributing motion picture films or video tapes.
 - (F) Child support payments made by an applicant for the benefit of the applicant's child or children.
 - (G) Alimony, separate maintenance, or similar periodic payments that an applicant is required to make to a spouse or former spouse.

(ii) Gross income shall include all of the following:

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- (A) The gross amount, before any payroll deductions, of wages; salaries; all overtime earnings in excess of \$4,000.00 per annum; commissions; fees; tips; bonuses; gambling winnings; and prizes won, except for Michigan lottery winnings and prizes.
- (B) The net income from the operation of a business or profession or from the rental of real or personal property. For this purpose, if the operation results in a loss, the loss may not be used to offset income generated from other sources. For this purpose, any shareholder that owns 10% or more of any outstanding class of stock in a corporation shall also be deemed to have received income in its proportionate share of net earnings not otherwise distributed in salaries or dividends.
- (C) All dividends and interest, including otherwise tax-exempt interest.
- (D) The full amount of periodic payments received from social security, housing assistance payments, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.
- (E) Payments in place of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- (F) The full amount of public assistance payments.
- (G) Periodic and determinable allowances, such as alimony and separate maintenance payments received, housing allowances received, and regular contributions or gifts received from persons who do not reside in the dwelling, if such sums are received on a recurrent basis and if such sums may be reasonably expected to continue.
- (H) The distributive share of partnership income.
- (I) All capital gains.
- (J) Child support payments received by an applicant for the benefit of the applicant's child or children.

(iii) Gross income does not include any of the following:

- (A) Casual, sporadic, or irregular gifts.
- (B) Amounts that are specifically for, or in reimbursement of, the cost of medical expenses.
- (C) Lump sum additions to household assets, such as inheritances; insurance payments, including payments under health and accident insurance; worker's compensation; and settlements for personal or property losses.
- (D) Amounts of educational scholarships paid directly to the student or to the educational institution, and veterans administration schooling benefits.
- (E) Foster child care payments.

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(F) The value of coupon allotments for the purchase of food pursuant to the food stamp act of 1977, 7 U.S.C. §§2011 to 2027, which is in excess of the amount actually charged the eligible household.

(G) Overtime earnings of \$4,000.00 or less per annum.



OBSOLETE PROPERTY REHABILITATION ACT (OPRA)

The Obsolete Property Rehabilitation Act (OPRA), Public Act 146 of 2000, provides for a tax incentive to encourage the redevelopment of obsolete buildings. A new exemption will not be granted after December 31, 2026, but an exemption then in effect will continue until the certificate expires. The tax incentive is designed to assist in the redevelopment of older buildings in which a facility is contaminated, blighted or functionally obsolete. The goal is to rehabilitate older buildings into vibrant commercial and mixed-use projects.

Note: This document is offered as a general guide only. The legislation should be reviewed by local officials.

WHO IS ELIGIBLE?

OPRA tax abatements may be given for those eligible projects that take place on an obsolete property and result in a commercial or mixed-use building project located in only the qualified local unit of government.

HOW DOES IT WORK?

A community essentially freezes the existing taxable value on a designated facility for up to 12 years. Additionally, the state treasurer may approve reductions of half of the school operating and state education taxes for a period not to exceed six years for 25 applications annually for rehabilitated facilities. By freezing the taxable value, it provides an incentive for the developer to make significant improvements to a building without increasing the property taxes on the building.

WHAT IS THE PROCESS?

Note: The following steps are offered as general guidelines only and the legislation should be reviewed by local officials prior to starting the designation process.

Local government process to designate an Obsolete Property Rehabilitation District (OPRD)

1. The governing body of a qualified local unit of government, by resolution, may designate one or more OPRDs within that local governmental unit. The OPRD may consist of one or more parcels or tracts of land that is characterized by obsolete commercial or obsolete commercial housing property.
2. The qualified local unit of government may establish an OPRD on its own initiative or upon a written request by at least 50 percent of the owners of the property within the proposed OPRD.
3. Written notice of a public hearing is provided by certified mail to all owners of all real property within the proposed district.
4. The governing body holds a public hearing with a public notice required not less than 10 days or more than 30 days prior to the date of the hearing.

5. The governing body adopts a resolution establishing the district and the determination that it meets the requirements under the legislation.

Owner/developer process for obtaining an OPRA certificate

1. An owner of an obsolete property within the district files an application for an OPRA certificate with the clerk of the local government that includes the details of the project.
2. Once a completed application is received, the clerk must notify the assessor and each taxing unit that levies property taxes, e.g., county, community college, library, etc.
3. The governing body holds a public hearing prior to acting on the resolution regarding the certificate.
4. Within 60 days of receipt of application, the local unit of government shall by resolution approve or disapprove the application for the certification for up to 12 years. The public hearings for the district and the exemption certificate may be held on the same day, but with individual public hearings.
5. Once approved locally, the application and resolution must be sent to the State Tax Commission (STC). The STC has 60 days to approve or disapprove the request. To apply for the abatement of school millage, the developer must make note of this on the application form. The STC is responsible for final approval and issuance of all OPRA certificates.

WHY WOULD A COMMUNITY WANT TO OFFER AN OBSOLETE PROPERTY TAX REHABILITATION TAX ABATEMENT?

The OPRA incentive is used to encourage the redevelopment of blighted buildings. In many cases, this could be an abandoned, multi-story industrial building that is now more suited for commercial or residential rental units. To the developer, the advantage is savings on property taxes. The tax incentives essentially freeze the local property taxes for up to 12 years, exempting from local property tax all real property improvements. In addition, the state treasurer has the ability to exempt one-half of the school millage for up to six years on 25 projects per year.

SUPPORTING STATUTES

[PA 146 of 2000: Obsolete Property Rehabilitation Act](#)

CONTACT INFORMATION

For more information on core communities and the unique incentives available in those areas, contact the [community development manager](#) assigned to your territory or visit www.miplace.org.

Frequently Asked Questions
Residential Housing Facilities Act
(2022 PA 237)

The following frequently asked questions are being provided as a service to assessors and taxpayers to better inform them about the administration of 2022 PA 237.

Note: The information contained in these frequently asked questions constitutes an analysis of one or more statutes and not legal advice. Since the analysis is limited to general statutory requirements, individual facts may result in different conclusions being reached. Therefore, individuals may wish to consult legal counsel.

1. What is a Residential Housing Exemption?

The Residential Housing Facilities Act (known as the Residential Housing Exemption), 2022 PA 237, provides a tax incentive to owners of rental housing property of more than four units to enable renovation and expansion of aging facilities and assist in the building of new facilities. A Residential Housing Exemption Certificate (RHEC) entitles the facility to exemption from ad valorem real property taxes for a term of 1-12 years as determined by the local governmental unit. Applications are filed, reviewed, and approved by the local governmental unit. The State Tax Commission (STC) must also approve the application and issue the exemption certificate.

2. What are the income tests for Residential Housing?

There are two income-related tests that must be met:

- a. The housing unit is rented or leased to an income-qualified household, i.e. a household whose adjusted household income is 120% or less of the countywide area median income as posted annually by MSHDA on its website (see questions 22 – 24 for complete definitions) and
- b. The rent/lease amount is no more than 30% of the income-qualified household's modified household income as determined by the local governmental unit (LGU). See question 25 for the definition of modified household income.

3. Within a housing structure or development, can only a portion of the housing units be designated for residential housing?

Yes. The housing units designated for residential housing are eligible for the property tax exemption and the specific tax. The other housing units can either remain on the ad valorem tax roll or be included in the exemption but be subject to a specific tax equal to the ad valorem property tax

4. Who establishes a Residential Housing District?

The legislative body of a city, village, or township may establish a Residential Housing District (RHD) on its own initiative or upon written request filed by the

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owner or owners of at least 50% of the taxable value of the property located within a proposed district. The resolution establishing the RHD must include the following information:

- a. A tax savings is provided only for housing occupied by households whose rent is no more than 30% of modified household income and whose adjusted household income is 120% or less of countywide area median income.
- b. Housing owners must annually certify which housing units were occupied in the prior year by households meeting the income tests.
- c. Each year the local government will calculate the specific tax based on the number of housing units occupied in the prior year by households meeting the income tests.

5. Who can file an application for a Residential Housing Exemption Certificate (RHEC) and with whom is it filed?

The owner of property in a Residential Housing District (RHD) may file an application for a RHEC with the Clerk of the city, village, or township that established the RHD.

6. How do I apply for a Residential Housing Exemption Certificate?

Applications can be found on the Michigan Department of Treasury website: www.michigan.gov/propertytaxexemptions. Completed applications are filed with the clerk of the city, village, or township and must be accompanied by the following documentation:

- a. A legal description of the property referred to in the application.
- b. A statement describing the facility and the proposed project that must include all of the following items:
- c. General description of the facility (including year built, original use, most recent use, number of stories and square footage);
- d. General description of the proposed use of the qualified facility;
- e. A description of the general nature and extent of the new construction or rehabilitation to be undertaken;
- f. A time schedule for undertaking and completing the new construction or rehabilitation of the qualified facility; and
- g. Detailed itemized costs of the new construction or rehabilitation to be undertaken with the total estimated investment amount matching the investment amount on the application.
- h. Provide a site plan and building floor plan approved by the local planning commission or local zoning administrator that includes the total number of residential dwelling units to be available for lease or rent.
- i. Provide a statement describing the number of residential dwelling units that will be reserved for income-qualified households throughout each calendar

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- year in which the specific tax is in effect.
- j. For housing units that will not be occupied by income-qualified households, request that those housing units be assessed on the ad valorem tax roll or request that those housing units be exempted and subject to a specific tax equal to the ad valorem tax.
 - k. Provide a statement that the applicant agrees to provide the LGU with an income certification for the income-qualified household residing within each unit designated as residential housing property each year that the income-qualified household resides in that residential housing property.
 - l. Provide a statement that the applicant agrees to allocate the benefits of the tax exemption granted under this act exclusively to residential housing property.

7. Are there provisions in the application process that are time sensitive?

Yes. Work may not begin before December 28, 2022, the effective date of 2022 PA 237. An application received by the STC after October 31st will not be processed until the following tax year. Also, within 60 days after the STC grants a residential housing exemption certificate for a new facility, the State Treasurer may change the millage rate used to calculate the specific tax. See the answer to questions 15 and 27.

8. Who determines if a facility qualifies for a Residential Housing Exemption Certificate (RHEC)?

Initially, the determination of qualification for an RHEC is made by the local governmental unit (LGU) when the application is filed with the clerk. Not more than 60 business days after receipt of the application, the LGU shall by resolution either approve or disapprove the application for a certificate in accordance with the Act. If approved, the clerk forwards the application and resolution to the STC. The resolution is not effective unless approved by the STC. The STC shall approve or disapprove the resolution.

9. What statements are required in a resolution approving a Residential Housing Application by the local governmental unit?

- a. A statement that the Residential Housing Exemption District was legally established including the date established and the date of hearing as provided by section 3 of 2022 PA 237.
- b. A statement indicating whether the taxable value of the property proposed to be exempt plus the aggregate taxable value of property already exempt under 2022 PA 237 and under 1974 PA 198 (IFT's) exceeds 5% of the total taxable value of the unit.
- c. A statement of the factors, criteria, and objectives, if any, necessary for extending the exemption, when the certificate is for less than 7 years.

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- d. A statement that a public hearing, separate from the hearing held for the district, was held on the application as provided by section 4(2) of 2022 PA 237 including the date of the hearing.
- e. A statement that the applicant is not delinquent in any taxes related to the facility.
- f. If it exceeds 5% (see above), a statement that exceeding 5% will not have the effect of substantially impeding the operation of the qualified local governmental unit or of impairing the financial soundness of an affected taxing unit.
- g. A statement that all of the items described under Part 2 of the Application for Residential Housing Exemption Certificate have been provided to the qualified local governmental unit by the applicant.
- h. A statement that the applicant provided a site plan and building floor plan approved by the local planning commission or local zoning administrator, whichever is applicable under the local zoning ordinance, that includes the total number of residential dwelling units to be available for lease or rent on the property.
- i. A statement that the applicant provided a statement describing the number of residential dwelling units that will be reserved for income-qualified households at any given time throughout each calendar year in which the specific tax is in effect.
- j. A determination whether the residential dwelling units not reserved for income-qualified households will remain on the ad valorem tax roll or be included in the exemption but subject to a specific tax equal to the ad valorem tax.
- k. A statement that the applicant agrees to provide the legislative body of the qualified local governmental unit with an income certification for the income-qualified household residing within each residential dwelling unit designated as residential housing property each year that the income-qualified household resides in that residential housing property.
- l. A statement, for a rehabilitated facility, that the applicant agrees to invest not less than \$5,000.00 in the existing residential housing property that has been renovated.
- m. A statement that the commencement of the rehabilitation of the facility did not occur before December 28, 2022.
- n. A statement of the period of time authorized by the qualified local governmental unit for completion of the rehabilitation.

10. What does the STC do when it receives an application and resolution from the clerk of the qualified local governmental unit (LGU)?

The STC reviews the application for completeness and compliance with the statute. If the application is incomplete, staff sends a request for the missing information. Once the application is complete, the STC is required to either approve or disapprove the resolution within 60 days. If approved, the STC issues

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a Residential Housing Exemption Certificate, and it is effective December 31st immediately following the date of issuance by the STC.

11. Can an application for a Residential Housing Exemption Certificate be denied?

Yes. An application can be denied at the local unit level if all of the requirements are not met by the applicant. The STC can also disapprove the resolution.

12. Can a decision of the STC regarding a Residential Housing Exemption Certificate (RHEC) be appealed?

Yes. A party aggrieved by the issuance, refusal to issue, revocation, transfer or modification of an RHEC may appeal a final decision of the STC by filing a petition with the Michigan Tax Tribunal, www.michigan.gov/taxtrib, within 35 days. MCL 205.735a(6)

13. What is the term of a Residential Housing Exemption Certificate (RHEC)?

The RHEC may be issued for a period to be determined by the local governmental unit (LGU) of at least one (1) year, but not more than twelve (12) years. If the number of years determined is less than (7), the certificate may be subject to review by the LGU and the certificate may be extended based on factors, criteria and objectives put into place at the time of the original LGU approval. The total amount of time determined for the certificate, including any extensions, shall not exceed twelve (12) years after the completion of the qualified facility. The certificate shall commence with its effective date and end on the December 30th immediately following the last day of the number of years approved.

14. What determines the starting date of a Residential Housing Exemption Certificate (RHEC)?

The effective date of the RHEC is December 31st immediately following the date of issuance of the certificate by the STC.

15. How is the Residential Housing Facility Tax (RHFT) computed on a Residential Housing Exemption Certificate?

New or Rehabilitated Facility: Multiply 50% of the state-average mills levied on commercial, industrial, and utility property in the immediately preceding calendar year by the taxable value of the real property (excluding land) for the current tax year. Within 60 days after the STC grants an RHEC, if the State Treasurer does not determine that reducing the number of mills levied under the state education tax (SET) is necessary to provide an adequate supply of housing for income-qualified

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households, the RHFT millage rate is increased by three mills. If the State Treasurer determines that further reducing the millage rate used to calculate the RHFT is necessary to provide an adequate supply of housing for income-qualified households, the State Treasurer may exclude an additional three mills of SET from the millage rate to calculate the RHFT.

NOTE: For a part of residential housing property that in the prior year was occupied by an individual, couple, family, or group of unrelated individuals either with rent in excess of 30% of modified household income or with adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan State Housing Development Authority on its website, the specific tax paid in lieu of taxes for the year on that part of the facility must be equal to the full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt.

16. Are there other provisions related to the residential housing income tests?

Yes. To verify continued eligibility as residential housing property, an LGU may develop and implement an audit program or may contract with an independent third-party auditor, the LGU may require the applicant to cover the cost of the auditor. For a formerly income-qualified household that has an income increase and is no longer an income-qualified household, that household may continue to reside in the residential housing unit only for the remainder of the lease agreement.

17. Are special assessments impacted by the granting of a Residential Housing exemption?

Special assessments may be impacted. Special assessments levied under 1951 PA 33, the police and fire special assessment act, do not apply to property with a Residential Housing Facilities exemption. However, the special assessments would still be applicable to the land on which the Residential Housing Facilities exemption property is located. Conversely, for special assessments levied under public acts other than 1951 PA 33, property with a Residential Housing Facilities exemption pays the full special assessment, the same as any “ad valorem” property.

18. Can a Residential Housing Exemption Certificate (RHEC) be transferred?

Yes. An RHEC may be transferred and assigned by the holder of the certificate to a new owner of the facility if the qualified local governmental unit approves the transfer after application by the new owner(s).

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19. Can a Residential Housing Exemption Certificate (RHEC) be revoked? If yes, who holds the authority to do so?

Yes. The legislative body of the qualified local governmental unit (LGU) may, by resolution, revoke the RHEC of a facility either upon request of the certificate holder or if the legislative body of the qualified LGU finds that the completion of the qualified facility has not occurred within the time authorized by the LGU in the certificate or a greater time authorized by the LGU, or that the holder of the exemption certificate has not proceeded in good faith with the operation of the qualified facility in a manner consistent with the purpose of the Act and in the absence of circumstances beyond the control of the holder of the exemption certificate.

20. When does the revocation of a Residential Housing Exemption Certificate take effect?

The revocation will take effect December 31st in the year in which the local governmental unit revokes the certificate by resolution.

21. Can a revoked certificate be reinstated?

Yes. Section 12 of the Act provides for the reinstatement of a revoked certificate. A reinstatement of a certificate must be approved by both the local governmental unit and the STC.

22. What is the definition of “residential housing property?”

MCL 207.952(m) defines “residential housing property” as:
“that portion of real property not occupied by an owner of that real property, that is used for residential purposes, is rented or leased to an income-qualified household at no more than 30% of the household's modified household income as determined by the qualified local governmental unit, and is either a multiple-unit dwelling of more than 4 units or a dwelling unit in a multiple-purpose structure of more than 4 dwelling units. Residential housing property does not include any of the following:
(i) Land.
(ii) Property of a public utility.”

23. What is the definition of “income qualified household?”

MCL 207.952(d) defines “income qualified household” as:
“an individual, couple, family, or group of unrelated individuals whose adjusted household income is 120% or less of the countywide area median income as posted annually by the Michigan state housing development authority on its website.”

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24. What is the definition of “adjusted household income?”

MCL 207.952(a) defines “adjusted household income” as:

“that term as defined in R 125.101 of the Michigan Administrative Code.

R125.101 of the Michigan Administrative Code defines “adjusted household income” as:

“the gross annual income from all sources and before taxes or withholding of all members of a household living in a dwelling unit or housing unit after deducting all of the following:

- (i) Unusual or temporary income of any member of the household.
- (ii) Six hundred and fifty dollars for each member of the household.
- (iii) Earnings of a member of a household who is under 18 years of age or who is physically or mentally handicapped.
- (iv) Fifty percent of the income of a second adult wage earner jointly occupying the dwelling or housing unit whose individual income is less than that of the wage earner with the highest income.
- (v) The lesser of \$1,000.00 or 10% of the gross annual income.

R125.102(i) of the Michigan Administrative Code provides:

(i) "Gross income," for determining eligibility, means all income derived from whatever source, as follows:

(i) In computing gross income, all the income of the members of the household, other than minors, living in the same dwelling unit and contributing to the expenses of the household is to be considered. Gross income shall be computed without deduction for the following:

- (A) Funds paid into a tax shelter retirement account.
- (B) Losses attributable to a farming syndicate as described in section 464 of the internal revenue code, 26 U.S.C. §464.
- (C) Losses attributable to any type of corporation or partnership engaged in exploring for or exploiting oil and gas resources.
- (D) Losses attributable to any type of corporation or partnership engaged in equipment leasing.
- (E) Losses attributable to any type of corporation or partnership engaged in holding, producing, or distributing motion picture films or video tapes.
- (F) Child support payments made by an applicant for the benefit of the applicant's child or children.
- (G) Alimony, separate maintenance, or similar periodic payments that an applicant is required to make to a spouse or former spouse.

(ii) Gross income shall include all of the following:

- (A) The gross amount, before any payroll deductions, of wages; salaries; all overtime earnings in excess of \$4,000.00 per annum; commissions; fees; tips; bonuses; gambling winnings; and prizes won, except for Michigan lottery winnings and prizes.
- (B) The net income from the operation of a business or profession or from the

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rental of real or personal property. For this purpose, if the operation results in a loss, the loss may not be used to offset income generated from other sources. For this purpose, any shareholder that owns 10% or more of any outstanding class of stock in a corporation shall also be deemed to have received income in its proportionate share of net earnings not otherwise distributed in salaries or dividends.

(C) All dividends and interest, including otherwise tax-exempt interest.

(D) The full amount of periodic payments received from social security, housing assistance payments, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

(E) Payments in place of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.

(F) The full amount of public assistance payments.

(G) Periodic and determinable allowances, such as alimony and separate maintenance payments received, housing allowances received, and regular contributions or gifts received from persons who do not reside in the dwelling, if such sums are received on a recurrent basis and if such sums may be reasonably expected to continue.

(H) The distributive share of partnership income.

(I) All capital gains.

(J) Child support payments received by an applicant for the benefit of the applicant's child or children.

(iii) Gross income does not include any of the following:

(A) Casual, sporadic, or irregular gifts.

(B) Amounts that are specifically for, or in reimbursement of, the cost of medical expenses.

(C) Lump sum additions to household assets, such as inheritances; insurance payments, including payments under health and accident insurance; worker's compensation; and settlements for personal or property losses.

(D) Amounts of educational scholarships paid directly to the student or to the educational institution, and veterans administration schooling benefits.

(E) Foster child care payments.

(F) The value of coupon allotments for the purchase of food pursuant to the food stamp act of 1977, 7 U.S.C. §§2011 to 2027, which is in excess of the amount actually charged the eligible household.

(G) Overtime earnings of \$4,000.00 or less per annum

25. What is the definition of “modified household income”?

As defined in MCL 207.952(e), “modified household income” is “adjusted household income” increased to include the earnings of a member of a household who is physically or mentally handicapped.

26. Is a minimum investment required for a rehabilitated facility?

Yes. A rehabilitated facility must have a renovation investment of not less than

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\$50,000 on or after December 28, 2022 (the effective date of 2022 PA 237) to bring the property into conformance with minimum local building code standards for occupancy, as determined by the LGU.

27. What is the State Treasurer’s State Education Tax (SET) exclusion?

Within sixty (60) days after the granting of a new Residential Housing Exemption Certificate, the State Treasurer may exempt 50% or 100% of the SET mills from the millage rate calculation for the Residential Housing Facilities Tax.

28. What is required of the Local Governmental Unit regarding the yearly status reporting of the Residential Housing Exemptions to the State Tax Commission?

Not later than June 15th of each year, each qualified local governmental unit granting a Residential Housing Exemption shall report to the State Tax Commission on the status of each exemption. The report must include the current taxable value of the property to which the exemption pertains.

29. Where can I obtain copies of previously issued Residential Housing Facilities Act Certificates?

Copies of certificates acted upon by the State Tax Commission will be available on the Department of Treasury website at: www.michigan.gov/propertytaxexemptions. Choose the exemption program under which the certificate was issued. Within the “Certificate Activity” link, the certificates are listed according to the date they were acted upon.

RESIDENTIAL HOUSING FACILITIES ACT
Act 237 of 2022

AN ACT to provide for the establishment of residential housing districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified residential facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain state and local governmental officials; and to provide penalties.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

The People of the State of Michigan enact:

207.951 Short title.

Sec. 1. This act may be cited as the "residential housing facilities act".

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.952 Definitions.

Sec. 2. As used in this act:

(a) "Adjusted household income" means that term as defined in R 125.101 of the Michigan Administrative Code.

(b) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(c) "Department" means the department of treasury.

(d) "Income-qualified household" means an individual, couple, family, or group of unrelated individuals whose adjusted household income is 120% or less of the countywide area median income as posted annually by the Michigan state housing development authority on its website.

(e) "Modified household income" means the gross annual income from all sources and before taxes or withholding of all individuals of a household living in a residential dwelling unit or housing unit after deducting all of the following:

(i) Unusual or temporary income of any member of the household.

(ii) Six hundred and fifty dollars for each member of the household.

(iii) Earnings of a member of a household who is under 18 years of age.

(iv) Fifty percent of the income of a second adult wage earner jointly occupying the residential dwelling unit or housing unit whose individual income is less than that of the wage earner with the highest income.

(v) The lesser of \$1,000.00 or 10% of the gross annual income.

(f) "New residential facility" means residential housing property newly constructed on or after the effective date of this act.

(g) "Qualified local governmental unit" means a city, village, or township.

(h) "Qualified residential facility" means a new residential facility or a rehabilitated residential facility, located in a residential housing district.

(i) "Rehabilitated residential facility" means existing residential housing property that has been renovated, with a renovation investment of not less than \$50,000.00 as determined by the qualified local governmental unit, on or after the effective date of this act, to bring the property into conformance with minimum local building code standards for occupancy, as determined by the qualified local governmental unit.

(j) "Residential housing district" or "district" means an area not less than 1 acre in size of a qualified local governmental unit established as provided in section 3.

(k) "Residential housing exemption certificate" or "certificate" means the certificate issued under section 6.

(l) "Residential housing facility tax" or "specific tax" means the specific tax levied under this act.

(m) "Residential housing property" means that portion of real property not occupied by an owner of that real property, that is used for residential purposes, is rented or leased to an income-qualified household at no more than 30% of the household's modified household income as determined by the qualified local governmental unit, and is either a multiple-unit dwelling of more than 4 units or a dwelling unit in a multiple-purpose structure of more than 4 dwelling units. Residential housing property does not include any of the following:

(i) Land.

(ii) Property of a public utility.

(n) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

Rendered Wednesday, April 12, 2023

Michigan Compiled Laws Complete Through PA 13 of 2023

207.953 Residential housing district; establishment by qualified local governmental unit; adoption of resolution; notice and opportunity for hearing; findings and determination.

Sec. 3. (1) A qualified local governmental unit, by resolution of its legislative body, may establish 1 or more residential housing districts.

(2) The legislative body of a qualified local governmental unit may establish a residential housing district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed district. The written request must be filed with the clerk of the qualified local governmental unit.

(3) Before adopting a resolution establishing a district, the legislative body shall give written notice by certified mail to the county in which the proposed district is to be located and the owners of all real property within the proposed district and shall afford an opportunity for a hearing on the establishment of the district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

(4) The legislative body of the qualified local governmental unit, in its resolution establishing a district, shall set forth a finding and determination that there is a need for residential housing within the district and shall provide a copy of the resolution by certified mail to the county in which the district is located.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.954 Residential housing exemption certificate; application requirements; notice and opportunity for hearing.

Sec. 4. (1) If a district is established under section 3, the owner of a qualified residential facility may file an application for a residential housing exemption certificate with the clerk of the qualified local governmental unit that established the district. The application shall be filed in the manner and form prescribed by the commission. The application must contain or be accompanied by a general description of the qualified residential facility, a general description of the proposed use of the qualified residential facility, the general nature and extent of the new construction or rehabilitation to be undertaken, a time schedule for undertaking and completing the qualified residential facility, and information relating to the requirements in section 8.

(2) Upon receipt of an application for a residential housing exemption certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the qualified residential facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified residential local governmental unit in which the qualified residential facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice of the time, date, and place of the hearing in the same manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application must be held separately from the hearing on the establishment of the district.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.955 Approval or disapproval of residential housing exemption certificate.

Sec. 5. The legislative body of the qualified local governmental unit, not more than 60 business days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for a certificate in accordance with the provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant and to the assessor. If the legislative body fails to timely approve the application, the application is considered denied. A resolution is not effective unless approved by the commission as provided in section 6.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.956 Issuance of residential housing exemption certificate; form; contents; effective date; maintenance of record and copies.

Sec. 6. (1) Not more than 120 days after receipt of a copy of the application and resolution adopted under section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant a certificate in the form the commission

determines, which must contain all of the following:

- (a) The address of the real property on which the qualified residential facility is located.
 - (b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.
 - (c) A statement of the taxable value of the qualified residential facility for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land.
 - (d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation or construction shall be completed.
 - (e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to subdivision (b) is less than 12 years, the exemption certificate shall contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.
- (3) Except as otherwise provided in section 7(2), the effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.
- (4) The commission shall file with the clerk of the qualified local governmental unit a copy of the certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the certificate to the applicant and the assessor of the local tax collecting unit in which the qualified residential facility is located.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.957 Exemption of qualified residential facility from tax; duration of force and effect of certificate; commencement; date of issuance; extension.

Sec. 7. (1) A qualified residential facility for which a certificate is in effect, but not the land on which the qualified residential facility is located, for the period on and after the effective date of the certificate and continuing so long as the certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(2) Unless earlier revoked as provided in section 12, a certificate shall remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The beginning date for the period that the certificate is in force and effect may be delayed for a period of up to 5 years from the date of approval of the application as determined by the legislative body of the qualified local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 12 years. If the number of years determined is less than 12, the certificate may be subject to review by the legislative body of the qualified local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 12 years after the completion of the qualified residential facility. The certificate shall commence with its effective date and end on the December 30 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, shall be the date of completion of the qualified residential facility.

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 12 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that shall be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the qualified residential facility is located, and the commission.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.958 Separate finding; contents; compliance; requirements; applicability; exception.

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount must not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for a certificate unless the applicant agrees to provide the legislative body of the qualified local governmental unit with an income certification for the income-qualified household residing within each residential dwelling unit of the qualified residential facility each year that the income-qualified household resides in that residential

dwelling unit.

(3) A qualified local governmental unit may develop and implement an audit program that includes, but is not limited to, the audit of the information submitted under subsection (2) or may contract with an independent third-party auditor to audit the information submitted under subsection (2). The qualified local governmental unit may require the applicant to cover the cost of the independent third-party auditor. The total number of residential dwelling units to be reserved for income-qualified households may be negotiated by the qualified local governmental unit but must not be less than 30% of the total number of residential dwelling units on the property or 1 residential dwelling unit, whichever is greater.

(4) If an income-qualified household currently residing within a residential dwelling unit reserved for an income-qualified household has an increase in adjusted household income between the time an income certification is conducted and the next income certification in the following year and that household is no longer an income-qualified household, then that formerly qualified household may continue to reside as occupants within that residential dwelling unit only for the remainder of their lease agreement. However, the next available residential dwelling unit on the property shall be reserved for an income-qualified household. Under no circumstances shall all residential dwelling units on the property be occupied by households whose adjusted household income is more than 120% of the countywide area median income for greater than 12 consecutive months.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.959 Determining taxable value of each qualified residential facility.

Sec. 9. The assessor of each qualified local governmental unit in which there is a qualified residential facility with respect to which 1 or more certificates have been issued and are in force shall determine annually as of December 31 the taxable value of each qualified residential facility separately, having the benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the taxable value of the property to which the application pertains.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.960 Residential housing facility tax; determination of amount; exemption; payment; disbursements.

Sec. 10. (1) The residential housing facility tax is levied upon every owner of a qualified residential facility to which a certificate is issued under this act.

(2) Except as otherwise provided in this section, the amount of the residential housing facility tax on a new residential facility is determined each year by multiplying 1/2 of the average rate of taxation levied upon commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined for the immediately preceding calendar year by the state board of assessors under section 13 of 1905 PA 282, MCL 207.13, by the current taxable value of the new residential facility after deducting the taxable value of the land.

(3) Except as otherwise provided in this section, the amount of the residential housing facility tax on a rehabilitated residential facility is determined each year by multiplying 1/2 of the average rate of taxation levied upon commercial, industrial, and utility property upon which ad valorem taxes are assessed as determined for the immediately preceding calendar year by the state board of assessors under section 13 of 1905 PA 282, MCL 207.13, by the current taxable value of the rehabilitated residential facility after deducting the taxable value of the land.

(4) Within 60 days after the granting of a residential housing exemption certificate under section 6 for a new residential facility, if the state treasurer does not determine that reducing the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and used to calculate the specific tax under subsection (2) is necessary to provide an adequate supply of residential housing for income-qualified households in this state, the millage rate used to calculate the specific tax under subsection (2) shall be increased by 3 mills. If the state treasurer determines that further reducing the millage rate used to calculate the specific tax under subsection (2) is necessary to provide an adequate supply of residential housing for income-qualified households in this state, the state treasurer may exclude an additional 3 mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the millage rate used to calculate the specific tax under subsection (2).

(5) Notwithstanding subsections (2) and (3), the specific tax paid each year for that part of a qualified residential facility that is exempt from ad valorem property taxes under section 7 and not used as residential housing property in the immediately preceding year must be equal to the amount of the ad valorem property taxes that would be paid on that portion of the qualified residential facility if the qualified residential facility

were not exempt from ad valorem property taxes under section 7. The owner of the qualified residential facility must allocate the benefits of any tax exemption granted under this act exclusively to residential housing property.

(6) The specific tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the specific tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(7) For intermediate school districts receiving state aid under sections 56 and 62 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656 and 388.1662, of the amount of specific tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(8) The amount of specific tax described in this section that would otherwise be disbursed to a local school district for school operating purposes must be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(9) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the department on a form provided by the department.

(10) A qualified residential facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the specific tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except for that portion of the specific tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The specific tax calculated under this subsection must be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.961 Lien.

Sec. 11. The amount of the specific tax, until paid, is a lien upon the real property to which the certificate is applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the specific tax, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the qualified residential facility by certified mail, with the register of deeds of the county in which the qualified residential facility is situated.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.962 Residential housing exemption certificate; revocation; transfer to subsequent owner.

Sec. 12. (1) The legislative body of the qualified local governmental unit may, by resolution, revoke the certificate of a qualified residential facility if it finds that the completion of the qualified residential facility has not occurred within the time authorized by the legislative body in the certificate or a duly authorized extension of that time, or that the holder of the certificate has not proceeded in good faith with the operation of the qualified residential facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the certificate.

(2) Upon receipt of a request by certified mail to the legislative body of the qualified local governmental unit by the holder of a certificate requesting revocation of the certificate, the legislative body of the qualified local governmental unit may, by resolution, revoke the certificate.

(3) Upon the written request of the holder of a revoked certificate to the legislative body of the qualified local governmental unit and the commission or upon the application of a subsequent owner to the legislative body of the qualified local governmental unit to transfer the revoked certificate to a subsequent owner, and the submission to the commission of a resolution of concurrence by the legislative body of the qualified local governmental unit in which the qualified residential facility is located, and if the qualified residential facility continues to qualify under this act, the commission may reinstate a revoked certificate for the holder or a subsequent owner that has applied for the transfer.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.963 Transfer and assignment of certificate.

Sec. 13. A certificate may be transferred and assigned by the holder of the certificate to a new owner of the qualified residential facility if the qualified local governmental unit approves the transfer after application by the new owner.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.964 Status report by local government.

Sec. 14. Not later than June 15 each year, each qualified local governmental unit granting a certificate shall report to the commission on the status of each exemption. The report must include the current taxable value of the property to which the exemption pertains.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.965 Annual report to legislature.

Sec. 15. (1) The department shall annually prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues a report on the utilization of residential housing districts, based on the information filed with the commission.

(2) After this act has been in effect for 3 years, the department shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of this act in the 3 qualified local governmental units in which it has been most heavily utilized.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

207.966 Exemption not granted after December 31, 2027.

Sec. 16. A new exemption must not be granted under this act after December 31, 2027, but an exemption then in effect must continue until the expiration of the certificate.

History: 2022, Act 237, Imd. Eff. Dec. 13, 2022.

Incentives Policy City of Ferndale

Adopted January 23, 2017

Introduction

The expansion, redevelopment, or reuse of some property may be complicated by historical activities that have left blighted or functionally obsolete buildings, or caused environmental contamination. The City of Ferndale (the City) is dedicated to building a partnership between its citizens, developers and the regulatory authorities in order to return these properties to active and appropriate reuse. To facilitate this partnership, incentives are available in the City and are provided to assist developers with the extraordinary costs of redeveloping impaired properties. The City encourages anyone developing a historically impacted property in the City to discuss these incentives with the Ferndale Community and Economic Development Department.

This policy is designed to promote the use of City incentives for projects that will:

1. Incorporate a preference for source control, blight elimination, active remediation, or mitigation;
2. Create full time jobs;
3. Provide an increase in taxable value to the property and a potential beneficial effect in the area that would not have occurred without the incentives; and
4. Use these incentives only after all other sources of funding for eligible activities have been exhausted.

The City has a preference for providing incentives to projects that:

1. Require the incentive to succeed; and
2. Will provide adaptive reuse of industrial buildings manufacturing in the industrial areas of the City; and
3. Will advance a specific strategic goal for the City of Ferndale, such as:
 - a. Increase the supply of affordable housing
 - b. Contribute to a specific action item in the adopted Master Plan
 - c. Provide adaptive reuse of vacant/blighted buildings and/or additional manufacturing uses in industrial areas; or
4. Will advance the strategic goals of the downtown area and DDA, such as:
 - a. Increase the supply of mixed-use, multi-family residential and office space
 - b. Increase the supply of family-oriented retail

Available Incentives

There are several types of incentives that can be used to assist with real estate redevelopment. These include, among others, tax abatements, tax increment financing, revolving loan funds, low interest loans and grants. The City will discuss the options available and applicable to your project during an initial consulting meeting. Most of these incentives require one or more of the parcels in the project be classified as a “Brownfield” as defined by Public Act 381, and all these incentives require that the Applicant show a financial need for assistance.

Pursuant to this policy, potential developers may identify a specific need and apply for local and state incentives for redevelopment. The City Incentives Committee sets parameters for when and how particular local incentives will be awarded, and will consider each application on a case-by-case basis, based on the merits of the particular plan and intended future use of the property. This policy applies only to local incentives for real estate redevelopment. For information on other incentives, please contact the Ferndale Community and Economic Development Department as listed below.

Brownfield Tax Increment Financing

For Brownfield tax increment financing, the cost of certain eligible activities may be reimbursed through capture of taxes on the increased taxable value resulting from redevelopment. This tax capture can apply to both local and state property taxes, but will require approval of the MEDC and/or MDEQ if state property taxes are captured. Eligible activities in the City include:

- Environmental Assessments (ex. Phase I, Soil and Groundwater Investigations, Baseline Environmental Assessments)
- Response Activities
- Due Care Plans
- Remediation and Engineered Controls
- Asbestos and Lead Based Paint Abatement
- Demolition
- Pre-demolition asbestos abatement
- Other actions necessary to protect the health, safety, welfare, environment, or natural resources
- Public Infrastructure
- Site Preparation
- Site Improvements

Interest costs are not considered to be an eligible activity under this policy. However, under extreme

circumstances the Applicant may attempt to demonstrate to the City the need for interest to cover a financing gap. Whether or not the Applicant successfully demonstrates such a need will be determined at the sole discretion of the City. In the event that interest is considered eligible, the maximum interest rate or amount of interest will be determined by City Council.

Applicants are encouraged to obtain approval for school tax capture as appropriate for the eligible activities requested. Local tax capture for eligible activities will be limited to the proportional share that captured local tax mills have to the total property taxes, even in cases where state tax capture is not approved. The exception will be those cases where there is a compelling local interest, which the City will determine at its discretion.

The Applicant is responsible for keeping detailed records of all eligible expenses and investments, including purchase orders, invoices, waiver of liens, contracts and records of payment, and for providing these to the City when requesting the incentive. Final reimbursement will be based on the records provided, and the City is not responsible for incomplete or inaccurate records. All requests for eligible expense reimbursement must be received no later than one year after receipt of certificate of occupancy in order to be considered eligible for reimbursement.

Eligible Projects

A construction, redevelopment, renovation or reconstruction project can be eligible for incentives in the City if it meets all of the following criteria:

1. The property is located in the City of Ferndale;
2. The property is an eligible property as defined by applicable legislation; and
3. The Applicant has completed a Phase I ESA prior to purchase, and, if the property is a facility, has, or will, submit a Baseline Environmental Assessment (BEA) to the MDEQ within 45 days of purchase or occupancy.

An eligible project can be considered for incentives in the City if it meets all of the following criteria:

1. The project is consistent with the objectives of this guideline and the City Master Plan; and
2. The projects construction budget and operating proforma indicate that it requires incentives to be successful and would not occur without the incentives; and
3. The project will significantly contribute to revitalization of the City through increased property taxes, job creation or creation of place; and
4. The development will ameliorate impediments to redevelopment through demolition, restoration, remediation, mitigation or control.

A project cannot be eligible for Brownfield incentives in the City if it meets any of the following criteria:

1. The Applicant is responsible for hazardous substance contamination identified at the property, or
2. There are outstanding back taxes owed on the property, or
3. The Applicant is not an innocent landowner as defined by Act 381, or
4. The parcel on which development is proposed is not an eligible property as defined by the applicable legislation.

Projects will be evaluated based on, but not limited to, the following criteria:

- The amount of extraordinary costs for redevelopment
- Amount of property tax generated after construction
- Amount of investment on a square foot basis
- Job retention, creation and quality
- Location
- Existence of abandoned, blighted or functionally obsolete buildings on property
- Length of time for which incentives are being requested
- Amelioration of threats to public health or the environment
- Whether the project will provide additional beneficial effects on the surrounding area and the community as a whole.

Eligible projects will be required to submit the following documents to the City for review. For documents required by MEDC or MDEQ, the City will submit these to the MEDC and/or MDEQ after review:

- An Incentives Application
- A Redevelopment and/or Brownfield Plan
- Phase I ESA completed before purchase
- Baseline Environmental Assessment, if applicable
- Reimbursement Agreement
- Financial Agreement for all loans and grant

Applications

All Applications and Plans must be submitted to the Economic Development Director. Materials must be written in a font no smaller than 11 point, including all tables and attachments. The City requires the following information be included:

- a. The basis for eligibility under the applicable legislation.
- b. A narrative demonstrating (1) that all applicable aspects of the City of Ferndale’s Master Plan have been considered in the planning of the project and (2) the specific provision(s) of the Master Plan advanced by the project.
- c. A list of all incentives that will be requested for this project from local, state or federal sources, and the estimated value of each incentive.
- d. A map indicating the eligible property and including parcel boundaries and parcel numbers.
- e. A map indicating the location and extent of any environmental impacts that exceed the unrestricted residential closure criteria established by the MDEQ for soil, if applicable.
- f. A map indicating the location and extent of and environmental impacts that exceed the unrestricted residential closure criteria established by the MDEQ for groundwater, if applicable.
- g. An explanation of the impacts or impediments that will be ameliorated by the project, including estimated costs.
- h. An evaluation of the twenty-year Internal Rate of Return for the project, including with incentives and without incentives

Each Plan must include the following in the tax capture calculation:

- The City requires an annual administrative fee to be paid from tax increment financing. The fee will be 5% of the tax increment captured for each year of capture.
- Tax capture for the City revolving loan fund will be included each year at 3% of the annual tax capture, and for five years following reimbursement of the Applicant, to the maximum amount permitted.
- Projected annual growth in taxable value for the subject property after the first year must reflect trends in the Consumer Price Index for the five years prior to the year of application. This rate shall be set by City Council. Consult with CED staff to determine the appropriate rate prior to submitting your application.

Time Limitations

The Incentives Committee will ensure that the length of time for any incentive is reasonable in balancing the City of Ferndale’s burden and risk with that of the Applicant. In general, the following guidelines will be used:

- Tax Abatements shall not exceed ten (10) years. If the total value of a proposed abatement exceeds more than 30% of the total project cost, such abatement shall not exceed five (5) years.
- Tax Increment Finance support shall not exceed twenty-five (25) years.
- Revolving Loan Fund Support shall be determined based on the amount requested relative to total project cost. Repayment period shall not exceed fifteen (15) years.

Miscellaneous Considerations

Application Expiration

Unless otherwise agreed to in writing by the City, incentive applications will expire and no longer be valid if the Applicant does not execute a Reimbursement Agreement within one hundred and eighty days of the date the application is approved by City Council.

Commencement of Construction

Unless otherwise stated in the Reimbursement Agreement, to remain eligible for the approved incentives, eligible activities must start within eighteen months of incentive approval, construction must start within two years of the executed Reimbursement Agreement, and construction must be completed within three years of the estimated completion date.

Adjustment of Eligible Expenditures

Incentives may be adjusted based on actual expenditures on eligible activities and investments, but shall not exceed the total amount listed in the approved application, and in no event shall incentives extend beyond the maximum term allowed by the applicable legislation.

Time Extensions

Any requests for an extension of the incentive period must be provided in writing to the City one year prior to expiration of the incentive agreement.

Payment of Applicable Taxes

Tax status must be certified annually and the property must remain in good standing on all state, local, and federal taxes. If property taxes are found to be delinquent for more than three consecutive months, the City shall provide written notification via certified mail to Owner and further reimbursement shall be withheld until the property is brought into good standing. If good standing is not restored within ninety (90) calendar days of the date that the certified mail is issued, any reimbursements issued during the period of delinquency shall be repaid to the City by Owner, in addition to a processing fee of 5% of the total amount of the repayment.

Project Closeout

Generally, the expiration of approved incentives and/or the formal closure/completion of a project will occur in accordance with provisions found in applicable federal, state or local laws, or formal instruments executed by the City and Applicant, such as (but not limited to) Reimbursement Agreements, governing the given incentives. Such provisions will hold force immediately as triggered by applicable actions or the passage of time. Formal correspondence to the Applicant informing of incentives expiration/project closure will only be issued from the City as required by law, or in cases where the City chooses to do so at the discretion of the CED Director.

Performance

Recipients of any form of local incentive support shall be expected to deliver the outcomes promised in their applications, plans, and agreements, upon approval. Incentive agreements shall contain clear expectations and definitions of satisfactory performance, including key deliverables, milestones, deadlines and other project-specific conditions, as well as penalties for non-performance.

These agreements will reflect the unique circumstances of each project and may also include safeguards such as requirements for personal guarantees for loan-based support and other considerations. Additionally, Applicants may be required to remain in the City of Ferndale for the duration of their incentive period. If a project fails to perform as agreed-upon, the Applicant may be required to reimburse the City and any other applicable jurisdiction for the full value of incentives provided plus an administrative fee of 5% of the value of the incentives.

Contact Information

The City of Ferndale contact listed below will oversee the implementation of the incentives. Applications for any incentives, and any questions or comments, should be directed to the City at the following address:

Community and Economic Development Director
City of Ferndale
c/o City of Ferndale Community and Economic Development Department
300 E Nine Mile Rd
Ferndale, MI 48220
248-546-2525

Application Process

1. It is recommended that the Applicant first contact the City Community and Economic Development Director to discuss the project.
2. Submit the Application Form (copy attached to this Policy) to the Community and Economic Development Director.
3. Schedule an initial project meeting with the Community and Economic Development Director, who will, if you are applying for state incentives, contact the appropriate state representative. The objective of this meeting is to discuss the eligibility of the proposed project and begin the process of considering the application.
4. A preliminary review of the project will be conducted and, if approved, an invitation to submit an application will be provided.
5. Submit an application or plan for review and approval (review fee due).
6. Attend the City Committee meeting(s) at which the application will be considered.
7. A public notice for the public hearing will be placed by the City in the local paper.
8. Attend the public hearing.
9. If recommended for approval, attend the City Council meeting at which the application will be considered.
10. If approved, the City will prepare a Reimbursement Agreement. Please note that projects may also require a Land Improvement Permit and associated proof of financial performance.
11. When eligible activities are completed, submit a reimbursement request to the City, including invoices and proof of payment, organized by the categories listed in the approved Brownfield Plan or 381 Work Plan (review fee due). Please contact the Brownfield Redevelopment Director for details on the contents of the reimbursement request.

Fees

There is no fee for an initial project consultation meeting, and no fee for a one-time, preliminary staff review of a draft application. The following non-refundable fees shall apply:

- Application/Plan Submittal Review: **\$2,000**
- Review of Material Change to Application/Plan or any of its component parts or supplemental pieces/attachments: **\$1,000** for each instance that the City is asked to review material changes to a TIF scenario or any other element of an application or other instrument of request for incentives that would result in additional local approvals. This fee will also be applied to applications that do not respond completely to all application requirements upon initial submittal.

When submitting reimbursement requests, the City requires a reimbursement review fee for legal, financial and administrative review, in order to verify expenses. This fee will be based on the complexity of the application. The request will clearly and explicitly detail expenses as related to the specific line items enumerated in the approved incentives plan. The Applicant will provide an escrow for the reimbursement review fee at the time of submittal of the reimbursement request.

Opportunity for Public Involvement and Comment

The following are times during the incentive process where the public has an opportunity to comment on the potential project:

1. The Ferndale BRA meetings that include review of the Brownfield Plan; and
2. The Public Hearing for consideration of the application during City Council review.

Schedule

The approval process is typically four to six months, depending on the timing of applications and submittals, completeness of the information provided, and the complexity of the impacts and selected remedies. In general, the City will make every attempt to complete City review and approve all incentive requests within two to three months of receipt of an administratively complete application. Please note that review by other agencies is beyond the control of the City.

Materials must be submitted to the City fifteen working days before any committee or Council meeting. Minor changes to the submitted documents must be provided to the City no later than nine business days before the meeting. Material changes require the entire application be resubmitted. Printed copies of all materials will be provided the committee or Council members five business days prior to the meeting. If changes are made after that period, then the City retains the right to table the plan to the next meeting.



Charter Township of Orion

Oakland County, Michigan

Tax Abatement Policy

Whereas, the Charter Township of Orion is desirous of providing a stable tax base as a means of providing for the needs of its residents; and

Whereas, an industrial tax base often generates more revenue than it consumes in services; and

Whereas, the State of Michigan has adopted laws that encourage industrial development by allowing for the granting of property tax relief by the municipality; and

Whereas, the Charter Township Orion desires to make use of said laws,

Therefore be it resolved, that the Charter Township of Orion does hereby adopt the following industrial tax abatement policy:

Purpose

This policy, and its attached exhibits, sets forth the scope, procedures and process for consideration of requests for the granting of tax abatement in the form of Industrial Facility Exemption Certificate(s) (IFECs) consistent with the provisions of Michigan Public Act 198 of 1974, as amended (MCL 207.551 et seq.), and Public Act 206 of 1893, as amended (MCL211.1 et seq.), with the intent of:

- ❖ Allowing the Township to administer a program which is efficient, effective, business-supportive, and accountable.
- ❖ Encouraging business growth, retention, and attraction.
- ❖ Strengthening the long-term competitiveness of local business and industry.
- ❖ Retaining and creating base manufacturing jobs.
- ❖ Generating new property tax dollars for the Township.
- ❖ Enhancing the skills and employability of the unemployed, underemployed, and employed persons within the region.

Scope

This policy applies to all P.A. 198 of 1974, as amended, applications within the Charter Township of Orion. In addition, this policy also applies to P.A 206 of 1893, as amended by P.A. 328 of 1998, applications which shall be considered on individual merit alone, without regard to any duration or other criteria set forth herein.

Summary of Procedure

Application shall be made on forms provided through the office of the Orion Township Supervisor accompanied by documents required for application for an IFEC as listed on attachment B.

Completed applications, including all required supporting documentation, shall be filed with the Orion Township Clerk along with a non-refundable application fee of \$1,000.00 to cover the cost of processing, advertising and required public hearing(s). Incomplete applications, as reviewed by the Orion Township Clerk shall not be accepted.

Accepted applications will be placed on an available Board agenda to schedule a public hearing. At the public hearing the applicant may present a summary of the application and supporting materials and answer questions from the Board. Upon the close of the public hearing the Board will take action regarding the application, including a determination of approval, number of years included in the certificate, and other permitted conditions.

Policy

1. The following standards will be applied to each request to receive an Industrial Facilities Exemption Certification (IFEC):
 - IFEC applications in approved Industrial Development Districts and/or Plant Rehabilitation Districts may be approved for an initial period of up to six (6) years, subject to allocation of personal and real property taxes in accord with the statute.
 - The Township may require an evaluation after two (2) years. If at the two (2) year evaluation the company has met the commitments agreed to in the Industrial Facilities Tax Exemption Agreement, an additional six (6) years may be granted for a maximum real/personal abatement of twelve (12) years. Provisions of P.A. 198 of 1974, as amended by P.A. 94 of 1996 shall be utilized by the Township when considering such an extension.
 - Tax abatements may be granted by the Township Board, at its sole discretion, for the purpose of strengthening the competitive operation of applicant businesses.
 - Each IFEC holder shall be required to enter into a legally-binding agreement with the Charter Township of Orion, under the provisions of P.A. 198 of 1974 as amended by P.A. 334 of 1993, covering, but not limited to, such matters as;
 - continuation of operations in the Township,
 - payment of taxes,
 - timely reporting for annual personal property statements,
 - annual submission of reports including the company's community support activities, and
 - non-discriminatory hiring practices.
 - Job creation and retention commitments by the company shall be for the duration of the exemption certificate. In the case of job retention, the burden of proof is on the applicant to show how the approval of the tax abatement would avert substantial job loss.

- Certificate holders are encouraged to provide training to upgrade the skills of its employees so as to support their advancement to higher-paying jobs in the company.
 - Certificate holders are required to provide the Township with documentation of good faith efforts to consult with Michigan Works to review job applications of Township residents who have completed or participated in local employment training programs, prior to filling new jobs in its facilities.
 - The Township will not grant tax abatement for office equipment such as furniture and fixtures, either in Plant Rehabilitation or Industrial Development districts. However, computers and computer-related equipment shall be eligible items considered for tax abatement.
 - To be eligible for a tax exemption certificate, the applicant shall not be delinquent in its payment of any local taxes.
 - A certificate holder shall annually file a report in the Township Supervisor's office by August 15th of each year during the life of a IFEC regarding its record of job retention and job creation, the number of Orion Township residents hired during the time period of the report, any community support activities, and other business information that will assist the Township in evaluating the companies activities and helping the Township build economic stability. Annual reports must be posted by the certificate holder on-site for at least thirty (30) days after being submitted to the Township to allow review by company employees. The Township Clerk and Supervisor will file a report to the Township Board on the status of IFEC's in Orion Township not later than October of each year.
 - Under certain conditions the Township may consider an applicant eligible for a combination of P.A. 198 of 1974, as amended, and P.A. 328 of 1998 tax abatement. This is in the sole discretion of the Township.
2. Plant rehabilitation projects qualify for approval only if there is a change in use, a change in ownership, or the value of the project substantially exceeds the statutory minimum requirements (10%), and the project is not attributable to delayed or deferred maintenance.
 3. The Township may require a statement of intent by an applicant seeking to establish a Plant Rehabilitation district regarding the scope and nature of its Plant Rehabilitation project. The Township shall retain the right to dissolve the district if the applicant's subsequent application is not consistent with the statement of intent.
 4. The Township may dissolve all, or a portion of, Plant Rehabilitation districts after an Industrial Facilities Exemption Certificate (IFEC) is issued.

5. The applicant shall agree that should ownership of the business and/or facility for which a IFEC is issued be changed in the future, thereby requiring a hearing before the Charter Township of Orion Board of Trustees under state law, the transferee or new owner shall abide by all the terms and conditions originally granted.
6. A tax exemption certificate may be revoked if a certificate holder:
 - a. fails to meet the terms of its certificate agreement, including payment of taxes and assessments;
 - b. abandons its facilities; or
 - c. fails to complete construction or rehabilitation of a facility within two (2) years as required by statute.

Effective Date

June 22, 2010

Attachments

Exhibit A – Definitions

Exhibit B – Checklist of Documents Required for Application for IFEC

Exhibit C – Act 198 Agreement Form

Exhibit D – Information summary and Affidavit of Fees

See Also

Michigan P.A. 198 of 1974; P.A. 334 of 1993; and P.A. 94 of 1996. Any conflict between this policy and state law shall be controlled by state law.

EXHIBIT A

Definitions

Plant Rehabilitation District: A Plant Rehabilitation District is established by a finding and determination that property aggregating not less than 50% of the State Equalized Value (SEV) of the industrial property within the district is “obsolete”.

Obsolete Industrial Property: Means a manufacturing plant which is currently operating at below-efficiency levels and requires a major investment in the way of equipment replacement or structural changes, or both, to eliminate or reduce the cause of inefficiency and enable the company to continue to operate in a more competitive and more economic situation. Under the law, industrial property is considered obsolete if its condition is in substantially less than an economically efficient functional condition. In other words, the desirability and usefulness of this property is impaired due to the need for changes in design, construction, technology or improved production, processes or because of external influencing factors which make the property less desirable and valuable for continued use.

Replacement: Means the complete or partial demolition of obsolete industrial property and the complete or partial reconstruction or installation of new property of similar utility.

Restoration: Indicates changes to obsolete industrial property, other than replacement, which are needed to eliminate that condition of obsolescence. Generally speaking restoration means major renovation of obsolete industrial property. If the planned improvements amount to less than 10% of the true cash value of the industrial property, they will be considered delayed maintenance and will not be eligible for tax exemption.

Replacement Facility: Is an industrial property which is designed to replace existing obsolete industrial property located within a plant rehabilitation district. Most “replacement facility” projects will fall within one of the following categories:

- **Total rehabilitation of an existing plant:** A manufacturing facility can no longer operate efficiently due to obsolescence. The company proposes to restore the plant by improving the buildings and replacing machinery throughout the plant; or the plant may be so obsolete that rather than restore the same, the company finds it more economical to replace the old plant with a new one. This is allowed as long as the replacement plant is built within the same municipality where the old plant is situated.
- **Partial rehabilitation of an existing plant:** If only a portion of an existing plant is obsolete and the company proposes to rehabilitate this portion by improving the building and replacing the obsolete property within the obsolete section of the plant, then this particular section of the plant can be certified for exemption while the remaining portion will continue to be fully taxable.
- **Rehabilitation of buildings only:** If the obsolescence affects only the buildings and the company plans to restore the same or replace them with newly constructed buildings while continuing to use the same machinery and equipment as before, then the exemption will apply to the real property only while the personal property will remain advalorem taxable.

Exhibit A – Definitions, continued...

New Facility: Is industrial property (other than a “replacement facility”) to be built in a plant rehabilitation district or industrial development district. Most “new facility” projects will fall within one of the following categories:

- **A completely new plant:** A new company proposes to construct a new building and equip the same with new machinery and equipment to begin a new manufacturing operation. Or this may be an existing company that is proposing to branch out at another location.
- **An expansion of an existing plant:** A growing company wants to expand its capacity and proposes to build an additional to the existing building and purchase new machinery and equipment to be housed in the new addition.
- **A new plant developed from an existing shell building or other existing building:** A company acquires an existing shell building or other unused building and proposes to utilize the same for manufacturing. The “new facility” will, in this case, encompass the acquisition and installation of any new machinery and equipment and the value of any changes and additions to the existing structure which are needed for the new plant.
- **A new building:** A company proposes to construct a new building but plans no new machinery and equipment acquisitions. This may occur when the company’s existing facilities will no longer be available (expiration of lease) or adequate, and new facilities are needed to continue operating. The “new facility” project will only cover the new building, as the company plans to continue using their existing machinery and equipment. The construction of a warehouse will also fall under this heading when no personal property acquisitions are required as part of the project.
- **New machinery and equipment only:** These are projects involving no new construction. They cover cases in which new plants are developed utilizing existing buildings which require only minor changes. They also cover cases in which new machinery and equipment is acquired (to expand capacity or add a new line) and the same is installed within the existing plant.

EXHIBIT B
Checklist of Documents Required for Application for
Industrial Facilities Tax Exemption (IFT) Certificate

CHARTER TOWNSHIP OF ORION
2525 JOSLYN RD., LAKE ORION, MI 48360; (248) 391-0304

Please include the following required information with a completed application package and submit all materials to the Orion Township Clerk's Office.

- One (1) completed original and three (3) copies of the completed IFT Certificate Application form (Form L4380) as established by the State Tax Commission. The application can be obtained by visiting the State Treasury website at www.michigan.gov/treasury, then scroll down to the "Treasury Forms" box and click on: Property Tax Forms, then Property Tax Abatement/Exemption. This form will ask the application to provide the following:
 - A complete list of new machinery, equipment, furniture and fixtures which will be used in the facility. The list should include description, type, identification, date of (expected) acquisition/installation by month/day/year, and (expected) cost.
 - If construction has already commenced, proof of the date construction started (groundbreaking) such as building permits, footing inspection reports, certified statements or affidavit from the contractor. Start of construction may not occur more than six (6) months before the filing of this application (§207.559(2)(c) of PA 198 of 1974).
 - Verification that the petitioner bears the tax liability for both ad valorem and personal tax for the subject property. You may use the Affidavit of Ownership form.
 - Two (2) copies of Proof of Ownership; Land Contract, Affidavit of Land Contract, Option/Purchase Agreement, Deed, etc.
 - An accurate legal description showing the specific location of the property within which the proposed exempt use will take place.
 - An application fee in the amount of \$1,000.00.

APPLICANTS TAKE NOTICE OF THE FOLLOWING:

1. **Legal Basis.** This application packet was prepared in accordance with Public Act 198 of 1974, as amended. All section references, except where otherwise noted, refer to this Act.
2. **Submitted Deadline.** Submittal of an IFT application **MUST** be received by the Township no later than six (6) months after commencement of the project. The Industrial Development District must be established before an IFT application can be accepted.
3. **Attendance Required at Public Hearing.** The Orion Township Board of Trustees requires the Petitioner or their Representative to be present at the public hearing, otherwise the item will be tabled to another meeting date.

INDUSTRIAL FACILITIES TAX EXEMPTION (IFT) CERTIFICATE REVIEW PROCESS

STEP 1: Applicant submits a completed application form as prescribed by the State Tax Commission. Items required include a general description of the facility and its proposed use, the general nature and extent of the proposed restoration, replacement or construction, a descriptive list of equipment that will be part of the facility and a timeline for the project.

STEP 2: The Clerk's Office will verify that the property in question is located in a previously established IDD. If an IDD has not already been established, the applicant must first request the Township Board establish a district as required by law.

STEP 3: The Clerk's Office will send a copy of the application to the Township Attorney for review and verification. A copy is also sent to the Township Assessor for their files.

STEP 4: If approved by the attorney, the item will be placed on the next available Board of Trustees agenda for consideration of the application. The Board of Trustees will set a public hearing date.

STEP 5: The item is placed on the next available Board of Trustees agenda for a public hearing (see MCL 207.555 (2)). Notice of the hearing shall be sent by regular mail to the Township Assessor and the legislative body of each taxing unit within the district that collects ad valorem taxes (see MCL 207.555 (2)). **The applicant must be present at the public hearing.**

STEP 6: The Clerk's Office drafts a Resolution and Abatement Agreement, according to State requirements, for consideration by the Board to either approve or disapprove the application.

STEP 7: The Board holds the public hearing and takes action on the request. The Board shall, by resolution, state its decision to either approve or disapprove the application. If denied, the reasons shall be set forth in writing in the resolution. If approved, the Board shall set the number of years for which the district will be valid and they will instruct the clerk to sign the resolution (see MCL 207.556).

STEP 8: The Township and the operator of the facility will execute an agreement outlining the conditions and recourses to be upheld during the abatement period.

STEP 9: If necessary, Forms T-1044A and/or T-1044, as created by the State Tax Commission, shall be completed. These are necessary if the abated SEV exceeds 5% of the Township's total SEV.

STEP 10: If the application is approved, the Clerk shall forward the application, resolution and other necessary information to the State Tax Commission (see MCL 207.556).

STEP 11: After review by the State Tax Commission, they will send the Industrial Facilities Exemption Certificate, or notice that the application was denied, to the Township by certified mail (see MCL 207.557(2)).

STEP 12: A copy of the Exemption Certificate shall be kept for the file, and another sent to the Assessor's Office for implementation.

**EXHIBIT C
ACT 198 AGREEMENT FORM**



**CHARTER TOWNSHIP OF ORION
OAKLAND COUNTY, MICHIGAN
ACT 198 AGREEMENT**

This agreement is between the Charter Township of Orion, a local governmental unit, whose address is 2525 Joslyn Rd., Lake Orion, Michigan 48360, and

_____, a _____
hereinafter referred to as the "Applicant", whose address is: _____

WHEREAS, the Charter Township of Orion is willing to approve the granting of an Act 198 Exemption Certificate, pursuant to Michigan Public Act 198 of 1974, as amended;

AND WHEREAS, Michigan Public Act 334 of 1993 requires that an Applicant and a local unit of government enter into an agreement as a condition to the approval of an Exemption Certificate;

AND WHEREAS, the Charter Township of Orion has established certain terms and conditions in order for an Exemption Certificate to be approved;

AND WHEREAS, the Applicant is willing to accept and be bound by such terms and conditions in order to receive an Exemption Certificate which will grant tax relief to the Applicant.

NOW THEREFORE, the Charter Township of Orion and the Applicant agree as follows:

1. Exemption Certificate. The Charter Township of Orion hereby approves of the granting of an Exemption Certificate by the State of Michigan in accordance with its resolution approving the same for an application received on _____, 20____, with an estimated project cost of \$_____.
2. Terms and Conditions. The Applicant hereby agrees that in exchange for receiving such tax benefits as are permitted to holders of an Exemption Certificate that it shall be bound by the following terms and conditions during the time period the Exemption Certificate is in effect:
 - A. That all utility bills to the Charter Township of Orion are paid within thirty (30) days of billing;
 - B. That all property tax bills are paid prior to such due dates after which interest would accrue;
 - C. That all assessments, fees, and/or charges which may be incurred or levied in the development of the property are paid without protest or challenge;
 - D. That the Applicant provide information periodically as requested by the Charter Township of Orion and permit the Charter Township of Orion and its agents to inspect the property and records of the Applicant during the term of the Exemption Certificate so as to verify property values and employment levels;

Exhibit C – Act 198 Agreement Form,, continued...

- E. That the Applicant maintain employment levels in the Charter Township of Orion as proposed in its application; and,
- F. That the Applicant abide by all ordinances and regulations of the Charter Township of Orion, subject, however, to such exceptions as may be granted by a public body empowered to grant a legal exception to an ordinance or regulation of the Charter Township of Orion;
- G. The Applicant is at all times in compliance with all federal, state and local laws, regulations and ordinances concerning environmental matters.

3. Revocation Reservation. The fulfillment of the conditions of this Agreement provided for in Paragraph 2 is a purpose for which the Certificate of Exemption was approved by the Charter Township of Orion, in addition to the purposes established by law. Failure to uphold these conditions will be considered to be operating the facility in bad faith in a manner not consistent with the purposes of Act 198 of the Public Acts of Michigan, 1974, as amended, and will be considered to be circumstances within the control of the holder of the Exemption Certificate justifying the revocation of the Exemption Certificate.

The Township Board of the Charter Township of Orion retains the right to revoke any Exemption Certificate for violation of any of the conditions stated in Paragraph 2 above. If the Applicant within three (3) years of commencing the operation after receiving an Industrial Facilities Exemption Certificate moves the operations outside the Charter Township of Orion, then all of the abated tax will be paid to the Charter Township of Orion. If the operations leaves after three (3) years but before six (6) years have expired, then one-half of the abated tax will be returned. After six (6) years no penalty will be applied. Likewise, if an Exemption Certificate is revoked for any of the reasons stated in Paragraph 2, then the same repayment of tax schedule shall be applied as if the Applicant had moved its operations outside of the Charter Township of Orion.

4. Effect. This Agreement shall be binding upon the Charter Township of Orion and the Applicant, and upon their successors and assigns. This Agreement shall be interpreted in accordance with the laws of the State of Michigan. Upon default, the other party shall be liable to the non-defaulting party for the reasonable attorney fees and court costs which may be incurred in enforcing a term or condition of this Agreement. This Agreement represents the entire Agreement of the parties, and replaces any prior oral, written or implied agreement of the parties. This Agreement may only be amended upon the mutual written agreement of the parties.

In witness thereof on the dates hereinafter indicated:

Witness:

Township: _____
By: _____
Its: _____
Date: _____

Witness:

Applicant: _____
By: _____
Its: _____
Date: _____

**EXHIBIT D
INFORMATION SUMMARY & AFFIDAVIT OF FEES**

**The Charter Township of Orion, Oakland County, Michigan
Act 198 Information Summary**

Name of Applicant: _____

Telephone Number: _____ Fax Number: _____

1. SIC Number: _____

2. Type of Product(s): _____

3. Year of Establishment of the Business: _____

4. Number of years the business has been located in the Charter Township of Orion: _____

5. If not in the Charter Township of Orion, number of years in community where presently located: _____

6. Total employment in the Charter Township of Orion:

	Current	Projected (next 12 months)
Full-Time	_____	_____
Part-Time	_____	_____
Temporaries	_____	_____
TOTAL	_____	_____

7. Estimate of how many projected new jobs will be provided: _____

Exhibit D – Information Summary & Affidavit of Fees, continued...

Industrial Facilities Tax Exemption Affidavit of Fees

In accordance with State Tax Commission Bulletin No. 3 dated January 1998, the Local Unit and Applicant for Industrial Facilities Exemption Certificate do hereby swear and affirm that no payment of any kind, whether they be referred to as “fees”, “payments in lieu of taxes”, “donations”, or by other like items, such payments are contrary to the legislative intent of Act 198 that exemption certificates have the effect of abating all ad valorem property taxes levied by taxing units with the unit of local government with which approves the certificate.

We do swear and affirm by our signatures below that “no payment of any kind in excess of the fee allowed, as amended by Public Act 323 of 1996, has been made or promised in exchange for favorable consideration of an exemption certificate application”.

Charter Township of Orion

Signed: _____

Printed Name: _____

Title: _____

Dated: _____

Applicant/Company

Signed: _____

Printed Name: _____

Title: _____

Dated: _____

CITY OF SWARTZ CREEK

Tax Abatement & Incentive Policy

Policy Statement: The City of Swartz Creek is committed to enhancing the quality of life for its residents. To do so, the community recognizes the need for robust and diverse businesses to add cultural, entertainment, economic, and related value to the community. The community further recognizes a need to create high-quality places (including walkable areas, diverse housing, higher densities, and public amenities) for such activities, especially in the traditional downtown. Lastly, the community recognizes that some barriers exist to fulfilling these aspirations. Such barriers include obsolescence of property, a struggling regional economy, and limited market strength of certain sectors.

Tax abatements (as provided by state statute) and local incentives (in the form of fee waivers and Tax Increment Financing assistance) can encourage private development projects that produce the results desired. Accordingly, consideration for tax abatements and/or incentives is viewed as a privilege, not as a property right. This policy establishes minimum requirements and a uniform set of standards and procedures to be used when considering a request for a tax abatement/exemption or incentives.

The focused purpose of tax abatements and local incentives is to provide for private investment that would not otherwise occur, provided such investment is aligned with the city's stated intentions. See the City Master Plan and Downtown Development Plan. Abatements and incentives, if awarded, are expected to be awarded to varying degrees that are in proportion with the degree of public benefit that results. The impetus for a formal program is based upon the Michigan Redevelopment Ready Communities best practices.

Abatements include:

1. Michigan Public Act 255 of 1978: Commercial Redevelopment Act
2. Michigan Public Act 210 of 2005: Commercial Rehabilitation Act
3. Michigan Public Act 198 of 1974: Plant Rehabilitation and Industrial Development Act

Incentives Include:

1. Water and Sewer Connection Fee Waivers
2. Tax Increment Financing Assistance (Per DDA policy & City Council Budget Oversight)

I. MINIMUM REQUIREMENTS FOR TAX ABATEMENTS & INCENTIVES

- A. Abatements & incentives shall be subject to duration and amount limits.
- B. Such duration and amount limits shall be for the minimum amount necessary to meet the goals of the project.
- C. Benefits to the city of the proposed abatement or incentive shall be:
 1. at least equal to or greater than the cost of the abatement; and
 2. accomplish at least one of the following purposes:
 - a. provide significant economic and/or employment opportunities;
 - b. provide or help acquire or construct public facilities;

- c. significantly redevelop or renew blighted areas;
 - d. help provide access to services for residents; or
 - e. preserve or restore a feature of historical significance.
- D. The taxable value of any proposed abatement, considered together with the aggregate taxable value of property exempt under certificates previously granted and in force shall not exceed five-percent of taxable value of the City of Swartz Creek.

Example: 2020 City of Swartz Creek potential taxable value - \$150,000,000
 Five-percent of City of Swartz Creek - \$7,500,000

- E. The city will not issue or be a signatory on bonds in connection with abatements.
- F. Commencement of any new construction or improvements shall be within the limits set forth within the applicable act related to the abatement being applied for.
- G. The city council will not take action on any abatement or incentive unless the applicant or legal representative is present at the public hearing to make a presentation and/or answer questions.
- H. The City reserves the right to waive, modify, or amend any of these policies when it is in the best interest of the city residents.
- I. Abatements shall be granted for RRC sites only.
- J. Incentives shall be granted for DDA sites only.

II. EVALUATION CRITERIA

- A. *Private Development Objectives.* The City of Swartz Creek will consider using tax abatement and local incentives to help private development projects that strive to achieve three or more of the following objectives:
 - 1. Include investment in formally recognized RRC sites (required for abatements)
 - 2. Provide for hospitality, cultural, entertainment, and recreational uses
 - 3. Include historic preservation or restoration
 - 4. Provide or retrain build-to lines for development (little or no setbacks)
 - 5. Provide outdoor uses such as dining, seating, recreation, etc.
 - 6. Include strong pedestrian features and design
 - 7. Include residential uses
 - 8. Provide multiple stories
 - 9. Provide total investment of over \$10,000,000 or 50 FTE
 - 10. Satisfy specific plan goal
- B. *Additional Objectives.* Some investments and their consequences are difficult to foresee, requiring flexibility in the decision making process. The City of Swartz Creek will therefore consider the following factors when evaluating tax abatement and incentive requests to help private development projects:
 - 1. Additional consideration will be given to existing businesses seeking to expand and grow within the city.

2. Whether or not the proposed project provides services not already provided in the city or services which are needed.
3. Whether or not the proposed business would be in direct competition with existing businesses in the city. Abatements should not be given to businesses which would receive a competitive advantage over similarly situated businesses in the city.
4. Whether or not the project will significantly impact environmental/natural resources.
5. Public and other stakeholder input.
9. The extent to which the project satisfies or requires improvements in city infrastructure, traffic control, or services such as law enforcement.
10. Consistency of the proposed project with city land use regulations, zoning and planning policies.
11. How the proposed project furthers the goals and objectives of the city and/or community.
12. The level of private financial investment into the project.

III. APPLICATION

- A. The applicant shall submit an application (available from the city) for all projects for which a tax abatement is sought from the City of Swartz Creek.
- B. Applications shall include:
 1. A letter formally requesting tax abatement or incentive from City of Swartz Creek;
 2. Completed application for tax abatement with all support materials attached (if applicable);
 3. The applicant will pay for any contracted legal, financial, consultant or other third party costs not to exceed statutory limits of the applicable act.
 4. Official forms developed by the state of Michigan, if applicable, shall also be submitted in a timely manner per procedures set forth within the applicable abatement/exemption act under which the application is made.
- C. The applicant shall submit completed applications to the city clerk.

IV. APPROVAL PROCESS

- A. The city clerk shall notify, by certified mail, each taxing jurisdiction of a request to establish an abatement district or an application for the abatement. Said taxing jurisdiction shall have 15 days from the date of receipt of said notification to respond in writing of their thoughts and considerations. These taxing jurisdictions shall have no voting or veto authority.
- B. The city clerk shall notify applicant by certified mail if the application is found consistent with this policy. Procedures set forth within the abatement/exemption act shall be followed.
- C. The length of the exemption shall be determined by the attached abatement schedule.
- D. The approval for the abatement district and approval of an application for abatement shall not be addressed at the same meeting.

V. DEVELOPMENT AGREEMENT AND ANNUAL REPORTING REQUIREMENTS

- A. *Development Agreement.* All projects granted tax abatement will be required to enter a development agreement. The development agreement will be recorded against the property, will clearly define the responsibilities of the property owner(s) receiving the abatement, and will require annual reporting.

- B. *Annual Reporting Requirements.* All projects granted tax abatement shall submit an annual status report on the form developed and provided by the City of Swartz Creek. The requirement makes all abatements granted consistent with State Tax Commission Administrative Rules, as they pertain to relevant Public Acts, as amended. The report content will meet reporting expectations set in the Development Agreement.

VI. RESCISSION OF ABATEMENT/EXEMPTION

- A. Imposition of any rescission is at the sole discretion of the City of Swartz Creek and shall be considered on a case-by-case basis in compliance within the applicable act under review.
- B. Rescission shall not violate the statutory requirements of the applicable act in any way. Consideration may include but are not limited to the:
 - 1. sale or closure of the facility and departure of the company from the jurisdiction unless abatement/exemption is transferable.
 - 2. significant change in the use of the facility and /or the business activities of the company not consistent with the requirement of the applicable act for which approved.
 - 3. significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic condition.
 - 4. failure to achieve the minimum number of net new jobs and wage level as specified in the abatement/exemption application.
 - 5. failure to complete the project in a timely manner as specified in the approval resolution.
 - 6. failure to comply with annual reporting requirements.
 - 7. failure to pay annual property taxes on real and personal property not exempt under the approved abatement/exemption.
 - 8. failure to cooperate with the City of Swartz Creek ordinances and policies.

Abatement Schedule

This schedule applies to Industrial or Commercial Property as defined in 211.34c of the General Property Tax Act

1. Capital investment \$Up to \$100,000 \$100,001 to \$250,000 \$250,001 to \$500,000 \$500,001 to \$1,000,000 \$1,000,001 to \$2,500,000 \$2,500,001 to \$5,000,000 \$5,000,001 and up	Years of tax abatement 1 2 3 4 5 6 7	Rehabilitated/restored additional two years in any capital investment
2. Job creation <u>as Full Time Equivalent</u> 1-10 11-25 26-50 51 and up	Years of tax abatement 2 3 4 5	
3. Job wages Average wage > 1.5x minimum wage Average wage > 2x minimum wage Average wage > 3x minimum wage	Years of tax abatement 2 4 6	
4. Number of years located in the City 2-10 11-15 16 and up	Years of tax abatement 1 2 3	
5. Private Development Objectives (II.A) 4-5 6-7 8+	Years of tax abatement 2 3 4	

Note: Total number of tax abatement years shall not exceed statutory limits. This schedule applies to years of TIF assistance.

Incentive Schedule

Incentives provided as a percentage of fee waivers (water and sewer REU's) or TIF funds returned to project (if available)

1. Capital investment \$Up to \$100,000 \$100,001 to \$250,000 \$250,001 to \$500,000 \$500,001 to \$1,000,000 \$1,000,001 to \$2,500,000 \$2,500,001 to \$5,000,000 \$5,000,001 and up	Percent of Fee 5% 10% 15% 20% 25% 30% 40%	Rehabilitated/restored additional 10% South of I-69 additional 20%
2. Job creation <u>as Full Time Equivalent</u> 1-10 11-25 26-50 51 and up	Percent of Fee 10% 15% 20% 25%	
3. Job wages Average wage > 1.5x minimum wage Average wage > 2x minimum wage Average wage > 3x minimum wage	Percent of Fee 10% 20% 30%	
4. Number of years located in the City 2-10 11-15 16 and up	Percent of Fee 10% 15% 20%	
5. Private Development Objectives (II.A) 4-5 6-7 8+	Percent of Fee 30% 40% 50%	

Note: Total incentive cannot exceed 100%. This schedule applies to annual TIF assistance as a ratio to the project-specific capture.

Current abatements available

PA 198 – 1974 – Industrial Facilities Tax

Eligible industries: manufacturing, research and development, high-tech, and communications centers.
Maximum eligible award – 50% abatement for up to 12 years on new real and personal property investments.

PA 255 – 1978 Reinstated 2009 – Commercial Redevelopment Tax

Eligible industries: obsolete and declining property, zoned for commercial/industrial prior to June 21, 1975
Maximum eligible award – 50% abatement for up to 12 years on replacement or new real property. Zero taxes levied on value of restored real property investment for up to 12 years.

PA 210 – 2005 – Commercial Rehabilitation Tax

Eligible industries: multifamily housing or group of contiguous commercial property 15 years old or older covering at least three acres or located in a downtown district.
Maximum eligible award – Zero taxes levied on value of restored real property investment for up to 10 years.

Swartz Creek Tax Abatement and Incentive Policy Procedures

1. Contact made from perspective applicant of tax abatement or incentive.
 - a. City of Swartz Creek Abatement & Incentive Policy and Application given to applicant. **(All applications are to go through City Clerk per policy and/or public act.)**
 - b. Give notice to city manager & city assessor.
 - c. Review of application and set meeting with applicant if determined they qualify.
2. Meeting with applicant after application is received.
 - a. Applicant presents possible project. Require applicant to have a cost of project analysis prepared by contractor or architect.
 - b. If applicant is unsure of abatement/exemptions available, review of each is presented.
 - c. If a qualified district for abatement is not in place, applicant is required to request, in writing, a district be established. (In some cases, notification must be given to assessor of request for a district because determining obsolescence is charged to assessor.)
 - d. If qualified district exists, skip to 4.
3. Establishing a district after receipt of request (STC abatements only).
 - a. Prepare memo to council explaining the project and if the applicant qualifies for an abatement/exemption per the city's policy. (Council has already proven to ignore interpretation and recommendation from staff).
 - b. Prepare resolution to set public hearing for establishing a qualified district.
 - c. Prepare maps and any other data that will assist council in making a decision.
 - d. All documents given to clerk by deadline set for being placed on council agenda.
4. After receipt of Incentive Application or State Exemption Application. (See tax link on Michigan.gov).
 - a. Prepare report to council, again explaining project.
 - b. Prepare resolution to set public hearing for abatement/exemption (hearing not required for local incentives).
 - c. Prepare Abatement Schedule for council that determines years for the abatement/exemption, not to exceed statutory limits. The applicant is to present cost estimate prepared by contractor or architect.
 - d. Prepare other supporting documents for council, such as maps, drawings, copy of city's abatement application.
 - e. All documents given to clerk (city manager) by deadline set for being placed on council agenda.
5. Assist clerk in preparing final approved and required documents to send to State Tax Commission for their approval. Many of the statutes give the STC 60 days to make their final approval and may also require documents be sent to them by October to place the abatement/exemption in place for the following year.

TAX ABATEMENT & INCENTIVE CRITERIA CHECKLIST

I. INITIAL CONSIDERATION

- | | | | |
|-------------------------------------------------------------------------------------------------------------------------------|---|---|----|
| A. Are the benefits to the city of the proposed abatement at least <u>equal to or greater than</u> the cost of the abatement? | Y | N | |
| B. In the public interest, will the abatement accomplish any of the following purposes? | | | |
| a. provide significant economic and/or employment opportunities; | Y | N | |
| b. provide or help acquire or construct public facilities; | Y | N | |
| c. significantly redevelop or renew blighted areas; | Y | N | |
| d. help redevelop or renew blighted areas; | Y | N | |
| e. help provide access to services for residents; or | Y | N | |
| f. preserve or restore a feature of historical significance. | Y | N | |
| C. Does the abatement apply to a RRC site? | Y | N | NA |
| D. Does the incentive apply to a DDA site? | Y | N | NA |

II. EVALUATION CRITERIA

- | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|--|
| A. <i>Private Development Objectives.</i> Will using tax abatement help the development project strive to achieve three or more of the following objectives? | | | |
| 1. Include investment in formally recognized RRC sites | Y | N | |
| 2. Provide for hospitality, cultural, entertainment, and recreational uses | Y | N | |
| 3. Include historic preservation or restoration | Y | N | |
| 4. Provide or retrain build-to lines for development (little or no setbacks) | Y | N | |
| 5. Provide outdoor uses such as dining, seating, recreation, etc. | Y | N | |
| 6. Include strong pedestrian features and design | Y | N | |
| 7. Include residential uses | Y | N | |
| 8. Provide multiple stories | Y | N | |
| 9. Provide total investment of over \$10,000,000 or 50 Full Time Equivalent jobs | Y | N | |
| 10. Satisfy specific plan goal | Y | N | |



APPLICATION FOR TAX ABATEMENT

Applicant (Official Company Name) _____

Business Name (If Different) _____

Address of Proposed Project _____

Mailing Address (If Different) _____

Do you own the property? _____ If no, what is your relationship? _____

Type of Abatement/Incentive Requested (if known) _____

Description of proposed project: type of business, product to be manufactured (if applicable), size of proposed structure and proposed activity and/or product. Provide narrative and described materials to support evaluation criteria findings. Attach materials and plans as necessary.

Give the estimated cost of the following components applicable for the proposed project:

Land improvements (excluding land): _____

Building improvements: Size _____ sf \$ _____

Machinery & Equipment: _____

Furniture & Fixtures: _____

Time schedule for start and completion of construction and equipment installation (if applicable):

Building:

Equipment installation (if applicable):

Start Date _____

Start Date _____

Completion Date _____

Completion Date _____

Will project be owned or leased by applicant? _____

Will machinery be owned or leased by applicant? _____

How many employees do you currently employ? Full Time _____ Part Time _____

How many new employees do you estimate after project complete? Full Time _____

Part Time _____

When project is complete, how many will be:

Management/Professional _____ Wage level \$ _____

Skilled _____ Wage level \$ _____

Semi-Skilled _____ Wage level \$ _____

Un-Skilled _____ Wage level \$ _____

Name of Company Officer (contact person) _____

Title _____

Signature _____ Date _____

Phone Number _____

Email Address _____