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PURPOSE: This policy relates to the consideration of requests for the granting of Industrial Facility Exemption Certificates (IFECs) consistent with the provisions of Michigan Public Act 198 of 1974, as amended, MCL 207.551 et. seq. (Act). The purposes of the policy are to:

1. Allow the city to administer a program which is efficient, effective, business-supportive, and accountable;
2. Encourage business growth, retention, and attraction;
3. Strengthen the long-term competitiveness of local business and industry;
4. Retain and create base manufacturing jobs;
5. Generate new property tax dollars for the city; and
6. Enhance the skills and employability of the unemployed, underemployed, and employed persons within the region.

SCOPE: Applies to all P.A. 198 requests within the City of Kalamazoo.

POLICY: The following standards and rules shall be applied to each request to establish an Industrial Development or Plant Rehabilitation District, or to receive an Industrial Facilities Exemption Certificate (IFEC):

1. Plant rehabilitation projects (see definitions, Attachment "A") 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 percent), and the project is not attributable to delayed or deferred maintenance.
2. IFEC applications shall be approved for a period of 6 years for real property improvements.
3. The city shall dissolve all inactive Plant Rehabilitation districts. An IFEC must be applied for within two years of the creation of a Plant Rehabilitation District or the district will be dissolved by the City Commission.
4. The city may require a statement of intent by an applicant at the time a Plant Rehabilitation district is requested regarding the scope and nature of its Plant Rehabilitation project. The city shall retain the right to dissolve the district if the applicant's subsequent application is not consistent with the statement of intent.
5. Tax abatements may be granted by the City Commission, at its sole discretion, for the purpose of strengthening the competitive operation of applicant businesses.
6. Each applicant, as a condition for approval of an IFEC, is required to enter into a legally-binding agreement with the City of Kalamazoo under Section 22 of the Act. The agreement, without limitation, shall address such matters as the applicant's continued operations in the city, timely payment of all property taxes, timely reporting for annual personal property

statements, annual submission of reports including the company's community support activities, and non-discriminatory hiring practices. The agreement shall also allow the city to recoup the amount of any abated or future taxes, including interest, penalties and fees, if the applicant is found in breach of the agreement. ('Clawback')

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7. 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. As part of its application, the applicant shall:
 - a. certify that it has eliminated any question or inquiry about prior arrests or convictions from initial job applications and that it does not preclude an individual with a criminal conviction from being considered for employment except for reasons that are (i) job-related and consistent with business necessity or (ii) required by federal or state law;
 - b. provide a copy of the application form currently used by the applicant; and
 - c. certify that it satisfies one or more of the following conditions:
 - (i) that pursuant to federal or state law applicant is precluded from hiring persons with certain criminal records from holding particular positions or engaging in certain occupations by providing a cite to the applicable statute or regulation;
 - (ii) that applicant conducts criminal history background checks only as necessary, and only after making a conditional offer of employment; that any withdrawal of an offer of employment to an individual because of a past criminal history is job-related and consistent with business necessity after the individual has been provided an individualized assessment opportunity to review and challenge or supplement the history of past criminal conduct being relied upon by the applicant;
 - (iii) that the use by applicant of criminal history background checks complies with the U.S. Equal Employment Opportunity Commission's Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions and that there has not been a finding of unlawful employment discrimination by a state or federal agency or court of competent jurisdiction regarding the use of arrest or conviction records by the applicant for the past 7 years.
8. The applicant is required to document that jobs created and retained will have an hourly wage rate equivalent to or exceeding 125% of the federal poverty income guidelines from the U.S. Department of Health and Human Services for a family of 3, plus health benefits, or 150% of the federal poverty income guidelines from the U.S. Department of Health and Human Services for a family of 3 if health benefits are not provided to the employee. Reporting is to be by the created or retained job classification.
9. The applicant shall agree that if in the future there is a change in the ownership of the business and/or facility for which an IFEC is issued, the transferee or new owner shall abide by all the terms and conditions of the local agreement, and the applicant will communicate all terms and conditions of this agreement to the transferee or new owner and assist the city in obtaining the signature of the authorized agent of the transferee or new owner on this agreement or an identically-worded agreement.
10. An applicant receiving an IFEC is 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 city with documentation of good faith efforts to consult with Michigan Works to review job applications of city residents who have completed

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or participated in local employment training programs, prior to filling new jobs in its facilities.

11. An IFEC 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;
 - c. fails to complete construction or rehabilitation of a facility within two years as required by statute; or
 - d. has engaged in unlawful employment discrimination during the term of the certificate.
12. An Industrial Development District may be revoked/eliminated if a tax exemption certificate holder:
 - a. has its certificate revoked by the State Tax Commission; or
 - b. fails to apply for an Industrial Development Tax Exemption certificate within two years of the creation of the district.
13. Annual reports for the prior calendar year must be submitted to the City Clerk no later than April 30 of each year of the life of a certificate. A summary copy of responses shall be submitted by the Clerk to the City Manager and City Commission no later than June 30 each year. Annual reports:
 - a. must be posted by the certificate holder on-site for at least 30 days after being submitted to the city; and
 - b. are subject to verification by the city or its designee.
14. To be eligible for an IFEC, the applicant shall not be delinquent in its payment of any local taxes.

EFFECTIVE DATE: June 1, 2016

SIGNATURE:

Mayor Bobby J. Hopewell

SEE ALSO: Michigan P.A. 198 of 1974; P.A. 334 of 1993; and P.A. 94 of 1996

HISTORY: Policy created September 2, 1986
Revised May 1, 2000
Revised June 4, 2007
Revised August 6, 2012 (Resolution 12-63)

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Revised May 16, 2016 to eliminate references to abatement of personal property tax and to require that requestors seeking an abatement not discriminate against persons with past criminal histories. (Resolution 16-xx)

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DEFINITIONS1. 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.”

2. 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 causes 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.

3. 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.

4. 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.

5. 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.

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- 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 ad valorem taxable.

- Replacement of machinery and equipment only

While the obsolescence affects only the personal property in the plant so that it becomes necessary to replace the obsolete machinery and equipment without making any significant improvements to the buildings, it is possible to obtain an exemption covering only the personal property to be acquired, leaving the real property component of the facility fully taxed.

6. 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 addition 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.