

City of Bay City
Tax Incentive Policies and Procedures
December 2004

(Amended by City of Bay City City Commission – May 24, 2010 and _____)

**Plant Rehabilitation
and
Industrial Development Districts Law**
(P.A. 198 of 1974)

Introduction

This booklet is designed to summarize the policies and procedures adopted by the City of Bay City, Michigan, effective November 1999, with regard to the Plant Rehabilitation and Industrial Development Districts Law (P.A. 198 of 1974, as amended). This Act was adopted in the State of Michigan in 1974 and is designed to provide liberal tax benefits to companies that modernize or expand obsolete facilities or build new plants in Michigan.

Before commencement of the project, a request to establish the district must be filed by the requesting firm and approved by the City Commission. Following the establishment of a district, the firm may apply for an Industrial Facilities Exemption Certificate. This entitles a facility to exemption from ad valorem real and personal property taxes for a period of up to 12 years. In lieu of the property tax, the firm will pay a specific tax known as the Industrial Facility Tax.

- ◆ The Industrial Facility Tax for an obsolete facility, which is being restored or replaced, is determined in exactly the same manner as the ad valorem property tax. The important difference is that the state-equalized valuation of the industrial property remains at the level assessed the obsolete facility prior to the improvements, even though the restoration or replacement substantially increases the true cash value of the facility.
- ◆ For a new plant or research and development laboratory being built in a plant rehabilitation or industrial development district, the Industrial Facility Tax is also determined as the ad valorem property tax. Instead of using the total mills levied as ad valorem taxes, only half the millage rate is applied. Therefore, the amount of the resulting local tax is equal to 50 percent of the taxable value of the new real and personal property for a period of up to 12 years.

The responsibility of the City Commission of the City of Bay City is to:

1. Establish by resolution plant rehabilitation districts and industrial development districts.
2. Act by resolution to either approve or deny the request for an Industrial Facilities Exemption Certificate.
3. Determine the number of years of the abatement.

All applications are filed, reviewed, and approved locally, however, are also subject to review at the state level by the State Tax Commission and the Department of Commerce. The State Tax Commission is ultimately responsible for final approval and issuance of Industrial Facilities Exemption Certificates.

Questions concerning PA 198 may be directed to the Economic Development Department, City Hall, 301 Washington Avenue, Bay City, Michigan, 48708, telephone (989) 894-8227 or (989) 894-8159.

This policy and procedure guide may be revised from time to time. It is recommended that users contact the Economic Development Department to determine if there are changes that would affect their project.

Goals and Objectives in Establishing a Plant Rehabilitation District or Industrial Development District

The Economic Development Staff will evaluate all Act 198 applications to establish districts based on the following goals and objectives, which will be applied equally in the review for both local and non-local firms. The project will:

1. Serve a good public purpose, i.e. expanded tax base, increase economic activity, and employment; and/or
2. Promote diversification of the City's present industrial base; and/or
3. Upgrade the City's current labor force by promoting more skilled or technical-oriented jobs within the City; and/or
4. Increase the City's average income level through the promotion of higher paying jobs; and/or
5. Provide economic stimulus to other private sectors, especially supportive facilities.

In addition, the following guidelines will be adhered to:

1. Development of the proposed industrial facilities will comply with all City ordinances and land use plans.
2. Proposed industrial facilities will be compatible with the City's present and future requirements for City services, such as infrastructures, utilities, and public safety.
3. Applicant meets current financial obligations to the City.

Guidelines for Applicants

Steps for companies to follow in the Tax Abatement Process

A. Establishment of a Plant Rehabilitation District or an Industrial District:

1. Applicants requesting establishment of an industrial development district or plant rehabilitation district must submit an application form **(Attachment A)** and pay the **application fee (See Fee Schedule), check made payable to the Bay City Treasurer,** to the City Clerk's Office.
2. Applications must be filed and approved prior to the start of construction or installation of equipment and/or machinery.
3. An application must comply with the provisions of PA 198, including the economic obsolescence test as set forth in the statute. Unless extraordinary evidence is submitted by the applicant clearly satisfying the objectives of PA 198, a plant rehabilitation district or certificate for a replacement facility will not be granted for construction on vacant non-contiguous land as set forth in Section 2 (3) (b) of the Act.
4. The application will be referred to the City's Economic Development Staff for study and a recommendation.
5. A public hearing will be scheduled for the City Commission to consider the request. The applicant will be notified of the date of the hearing and proper legal notices will be mailed and published by the economic development specialist.
6. If the establishment of a district is approved, the applicant may proceed with an application for an Industrial Facilities Exemption Certificate **(State Application Form 1012)**.

B. Application for an Industrial Facilities Exemption Certificate:

1. The applicant must file originals of the Application for Industrial Facilities Exemption Certificate **(State Application Form 1012)** and pay the **application fee (See Fee Schedule) (check made payable to Bay City Treasurer)** to the City Clerk's Office.

2. The application must:
 - ◆ List all new machinery, equipment, furniture, and fixtures that will be used in the facility (**Attachment B**). The list should include description, type, identification, date of (expected) acquisition by month/day/year, and (expected) cost. Pollution control facilities which applicant intends to apply for under PA 250 of 1965, as amended (air) and PA 222 of 1966 (water), are to be listed separately.
 - ◆ **Rehabilitations Only** - List existing machinery, equipment, furniture and fixtures that will be replaced or renovated. List existing machinery, equipment, furniture, and fixtures that will continue to be used in the facility. The list should include description, type, identification year of acquisition, and original cost. (**Attachment C**)
3. Each application must include a Letter of Agreement signed by the City of Bay City and operator of the facility outlining conditions/remedies to be maintained during the life of the abatement (**Attachment D**).
4. The application for an exemption certificate must be filed within six (6) months after the commencement of the restoration, replacement or construction of the facility or it cannot be considered for approval.
5. File all applications with the City Clerk. After the City Clerk has received the application for an exemption certificate and the payment for the application fee (check is to be made payable to "Bay City Treasurer"), a public hearing date is established and the application is referred to the Economic Development Department and other units of government, which levy property taxes.
6. The Economic Development Department will study the application and make a recommendation to the City Commission.
7. The matter will then be placed on the City Commission's agenda for consideration within sixty (60) days of receipt of the application.
8. The City Commission will decide local approval of the exemption certificate. The City Commission may exercise its discretion to determine the length of the Act 198 Certificate in accordance with the objectives set forth in these guidelines and the general health, safety, and welfare of the City of Bay City.
9. Pollution control facilities which applicant intends to apply for under PA 250 of 1965, as amended (air) and PA 222 of 1966 (water), are to be listed separately.

10. Final certification for the project will be made by the Michigan State Tax Commission upon timely receipt (prior to November 1st of each year) of the application approved by the City Commission.

Determination of Number of Years for Industrial Facilities Exemption Certificates

The Economic Development Department will review, calculate and recommend the term of each tax exemption certificate based on items, including, but not limited to: Create employment, retain employment/prevent employment loss.

Disapproval / Appeals

The City Commission, not more than sixty (60) days after receipt of the application by the City Clerk, shall by resolution either approve or disapprove the application for an Industrial Facilities Exemption Certificate in accordance with Section 9 and the other provisions of this Act. If disapproved, the City Clerk shall return the application to the applicant. The applicant may appeal the disapproval to the State Tax Commission with ten (10) days after the date of the disapproval.

Local Agreement / Annual Report

The State Tax Commission mandates that each community enters into an Agreement with companies granted tax abatement benefits. The Agreement (**Attachment D**) covers such issues as investment, job creation, and non-relocation. In addition, the Agreement requires that all companies receiving tax abatement benefits submit to the City Assessor for the term of the Industrial Facilities Exemption Certificate an annual status report recapping activity for the abated project as of December 31 of each year. The report will be due no later than February 20 of each subsequent year. The report will indicate actual moneys expended as of each annual report date, total project actual costs by year of completion and actual number of jobs created or retained as of December 31, of each year of the project. If there is a variation of more than ten (10) percent in the estimated employment levels or expended moneys from what was set forth in the application, the company must include an explanation for this variation in the annual status report.

Revocation of an Industrial Facilities Exemption Certificate

The City Commission may request that the State Tax Commission revoke an exemption certificate upon grounds that:

- 1) The completion of the facility has not occurred within two (2) years, unless a longer time was authorized; or
- 2) The purpose for which the certificate was issued is not being fulfilled as a result of a failure of the holder to proceed in good faith (See Section 15 of PA 198, as amended).
- 3) Failure to comply with the terms of the Letter of Agreement.

Transfer of an Industrial Facilities Exemption Certificate

An Industrial Facilities Exemption Certificate may be transferred and amended by the holder to a new owner, but only with the approval of the City Commission and State Tax Commission. Please use the Application for Industrial Facilities Exemption Certificate to apply for a transfer.

Completed Applications

All completed applications for an Industrial Facilities Exemption Certificate must be filed with the City Clerk.

Questions or assistance concerning the Tax Abatement Policy and Procedures may be directed to the Economic Development Department, City Hall, 301 Washington Avenue, Bay City, Michigan, 48708, telephone (989) 894-8227 or (989) 894-8159.

Project Completion

R 209.55 Notification of date of project completion; filing of final cost Rule 55.

1. The applicant for an Industrial Facilities Exemption Certificate or holder of a certificate shall notify the assessing officer and the State Tax Commission of the date of completion as explained in Section 16 of Act. 198, being paragraph 207.566 of the Michigan Compiled Laws.

2. The notification of completion of the project shall be filed within thirty (30) days of completion.
3. The final cost of a project shall be filed with the assessing office and the State Tax Commission within ninety (90) days after completion.

R 209.57 Consideration of application.

1. All complete applications for industrial facilities exemption certificates received through October 31 shall receive consideration and action by the commission before December 31. An application received on or after November 1 shall be considered by the commission contingent upon staff availability.

What is meant by “obsolete industrial property?”

Obsolete 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 inefficiency and enable competitive and more economical operation of the facility.

Under the law, industrial property is considered obsolete if it is in substantially less than an economically efficient functional condition due to the need for changes in design, construction, technology or improved production processes, or because of external factors which decrease the value of the property.

Application for Establishment of a Tax Abatement District

Date: _____

Industrial Development:

Plant Rehabilitation:

Legal Name of Applicant: _____

Contact Person: _____

Telephone: _____ Fax: _____

Address: _____

Project Address: _____

1. Name and nature of applicant's business:
2. Type and cost of new construction or rehabilitation:
3. When will work begin? (month/year)
4. Type and cost of equipment to be ordered:
5. When will the first piece of equipment be ordered? (month/year)
6. When will construction be completed and/or new facility occupied? (month/year)
7. Total number of employees at the present time:
8. How many jobs are expected to be created within 2 years after project completion?
9. What types of jobs are expected to be created?
10. Legal description of the real property involved:
11. Permanent parcel number:
12. Name and address of all property owners within the proposed district:
Current SEV: Real Property: _____ Personal Property: _____
13. Current zoning of the site:

Note: No tax abatement will be considered for any projects commencing prior to the establishment of the district.

Signed: _____

Attachment B

Cable Equipment

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Computer & Peripheral Equipment

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Improvements

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Machinery & Equipment

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Computer Controlled Machinery & Equipment

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Furniture & Fixtures

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Attachment B

Office Machines

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Electronic, Video & Test Equipment

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Consumer-Utilized Equipment

Description	Type	Identification	Date of Expected Acquisition (Mo./Day/Yr.)	Projected Cost

Industrial Facilities Exemption Certificate Letter of Agreement

This Agreement, made this _____ day of _____, 20____, by and between _____, of _____, Bay City, Michigan 4870 _____ (“Company”) and the CITY OF BAY CITY, a Michigan municipal corporation, of 301 Washington Avenue, Bay City, Michigan 48708 (“City”) for the purposes of fulfilling the requirements of Act. No. 198 of the Public Acts of 1974, as amended, and to set forth the rights, duties and obligations of the respective parties.

1. Company acknowledges that as a prerequisite to obtaining an Industrial Facilities Exemption Certificate (“tax abatement”) that Company has made certain material representations to the City in its application for an Industrial Facilities Exemption Certificate dated _____, _____, upon which the City has justifiably relied, and upon which the City will continue to rely, and based upon which the Company will receive certain monetary benefits, tax abatements, to which it otherwise would not be entitled.
2. Company further acknowledges that the receipt of an Industrial Facilities Exemption Certificate is also based upon the material representations made by the Company in its application for an Industrial Facilities Exemption Certificate. Further, that all representations made therein are true and correct to the best of the company’s information, knowledge and belief and that the representations include the past history of the Company, the present status of the Company and the future duties and obligations to be performed by the Company.
3. In consideration of the receipt of an Industrial Facilities Exemption Certificate, it is expressly agreed by the Company that should any of the material representations of Company be erroneous or should Company fail to substantially perform any future promises, duties or obligations, the same shall be deemed to constitute a breach of this Agreement and the City may petition the State Tax Commission to revoke the Industrial Facilities Exemption Certificate.
4. Company agrees to comply with all relevant local rules, regulations, codes and ordinances within the City of Bay City during the entire period for which the Industrial Facilities Exemption Certificate was granted. Under this provision the Company agrees to comply at all its facilities in the City of Bay City with all construction, building and zoning codes in effect during the entire period for which the Industrial Facilities Exemption Certificate was granted. Failure to comply shall constitute grounds for revocation of the Industrial Facilities Exemption Certificate.

5. Company shall submit to the City Assessor, for the term of the Industrial Facilities Exemption Certificate, an annual status report recapping activity for the abated project as of December 31, of each year. The report will be due no later than February 20 of each subsequent year. It will indicate actual moneys expended as of each annual report date, total project actual costs by year of completion and actual number of jobs created or retained as of December 31, of each year of the project. If, as of any annual report date during the life of the project, there is a variation of more than ten percent (10%) in the estimated employment levels or expended moneys from what was set forth in the application, the Company must include an explanation for this variation in the annual status report.

6. Company further agrees that it shall pay all taxes and assessments on the regular ad valorem tax roll, real and personal, hereupon levied on said premises or any equipment or personal property thereon before any penalty for non-payment attaches thereto, beginning with the next tax billing and continuing throughout the term of the Industrial Facilities Exemption Certificate. Failure to pay all such taxes as provided above shall be deemed to constitute a breach of this Agreement and City may petition the State Tax Commission to revoke the Industrial Facilities Exemption Certificate and/or may otherwise proceed in accordance with the remedies provided by statute. If, at any time during the effective term of the exemption certificate, a participant in the program appeals to the Michigan Tax Tribunal disputing the "taxable value" of the property subject to the tax abatement, the City of Bay City may petition the State Tax Commission to revoke the Industrial Facilities Exemption Certificate.

7. Company represents that it intends to remain within the City of Bay City during the entire period of time for which the Industrial Facilities Exemption Certificate has been approved. Under this provision the Company agrees to maintain buildings, equipment and employment related to the new project as represented by the Company in its application for an Industrial Facilities Exemption Certificate. Company also represents that it intends to maintain overall building, equipment and employment at the level as represented by the Company in its application for an Industrial Facilities Exemption Certificate. Failure to remain within the limits of the City of Bay City or failure to implement and maintain buildings, equipment and employment related to the new project shall be deemed to constitute a breach of this Agreement and City may petition the State Tax Commission to revoke the Industrial Facilities Exemption Certificate. Company acknowledges that failure to remain within the City of Bay City during the entire period for which the Industrial Facilities Exemption Certificate was granted shall constitute grounds for immediate revocation of the Industrial Facilities Exemption Certificate and the denial of the City's consent to the granting of an Industrial Facilities Exemption Certificate in a governmental unit to which the Company has relocated or employment has been transferred from the City. Company may present to the City Commission those compelling circumstances, which could allow the City Commission, in its sole discretion, to approve such transfer.

8. Company does not agree to maintain any specified level of overall plant employment, for any particular period of time, except as specifically set forth in its Application for an Industrial Facilities Exemption Certificate. The City's sole remedy and the Company's sole obligation in the event of an employment shortfall are set forth herein.

9. City acknowledges that in some instances, economic conditions, technology, or conditions beyond the control of the Company may prevent the Company from fulfilling the terms of the Application for an Industrial Facilities Exemption Certificate and complying fully with this Agreement. City agrees that it shall give the Company an opportunity to explain to the City Commission the reasons for any variations from the representations as contained in the Application for an Industrial Facilities Exemption Certificate and the City Commission, in its sole discretion, will evaluate the Company's situation prior to taking any action authorized by this Agreement.

10. This Agreement shall become effective upon the issuance of a Certificate in compliance with the Application for an Industrial Facilities Exemption Certificate by the Michigan State Tax Commission and shall be null and void and of no force or effect whatsoever, if the Michigan State Tax Commission fails to issue such a Certificate. This Agreement shall be null and void upon expiration of the Industrial Facilities Exemption Certificate.

11. The Affidavit attached as "**Exhibit A**" is incorporated by reference as if fully set forth herein.

INWITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first written above.

WITNESSES:

COMPANY: _____

WITNESSES:

CITY OF BAY CITY:

Affidavit

STATE OF MICHIGAN)
)ss
COUNTY OF BAY)

The undersigned, being first duly sworn deposes and says as follows:

“We swear and affirm by our signatures below that no payment of any kind in excess of the fee allowed by Act 198 of 1974, as amended by PA 323 of 1996, has been made or promised in exchange for favorable consideration of the exemption certificate application.”

COMPANY:

On the ____ day of _____, 20__, before me, a Notary Public in and for said County, appeared _____, to me personally known, who being duly sworn did say that he/she is the _____ of _____, the corporation named herein and which executes the within instrument, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and acknowledged said instrument to be the free act and deed of said corporation.

_____, Notary Public
_____, County, Michigan
My Commission Expires: _____

CITY:

City Manager or Designee

On the ____ day of _____, 20__, before me, a Notary Public in and for said County, appeared _____, to me personally known, who being duly sworn did say that he/she is the _____ of the City of Bay City, the municipal corporation named herein and which executes the within instrument, and that said instrument was signed and sealed in behalf of said corporation by authority of its Commission, and acknowledged said instrument to be the free act and deed of said corporation.

_____, Notary Public
_____, County, Michigan
My Commission Expires: _____

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