



## CITY OF PORTAGE INDUSTRIAL TAX ABATEMENT INCENTIVE POLICY

The City of Portage encourages the growth and development of the local industry and business tax base, the creation of additional job opportunities for community residents and desires to continue to provide incentives for industry and business expansion. The City Council also recognizes the essential responsibility to the community to maintain the array of public services necessary to ensure the high quality of life that exists in Portage. To facilitate tax base expansion and to fulfill these responsibilities, the City Council hereby establishes this City of Portage Industrial Tax Abatement Incentive Policy.

The City of Portage is *A Natural Place to Move*. To continue to be a community in which growth and development can prosper, the following attributes important to all industries and businesses will be maintained:

- **Low Tax Rate.** The maintenance of the lowest feasible tax rate compared to other full-service cities is essential to economic development and will facilitate expansion and job creation: A very competitive City of Portage tax rate will be continued.
- **Utility Service Rates.** The maintenance of competitive utility rates is also important to provide opportunities for continued growth and development: Cost effective rates and the efficient delivery of utility services by the City of Portage will be continued.
- **Capital Improvements.** Investments in existing public street, water, and sewer infrastructure and the expansion of these public systems are necessary and will encourage additional private sector investment: The annual 10-year Capital Improvement Program budget will continue to reflect essential public improvements within the community.
- **Quality of Life Investments.** To provide opportunities for industry and business expansion and to ensure high quality of life standards, public safety, business and neighborhood services, cultural and recreational programming and related community attributes must be maintained: Quality of life investments will be continued by the City of Portage to foster a safe, *Living, Working and Learning* community.

In addition to these important locally-determined economic development and growth factors, the City Council will offer eligible industries and businesses the opportunity to apply for property tax abatements under Michigan statute in order to induce further private sector investment in the community.

Inquiries concerning this policy can be directed to the Department of Community Development (269.329.4474), in Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002.

DATE OF ADOPTION BY CITY COUNCIL: April 9, 2024

## PA 198 Plant Rehabilitation and Industrial Development District Policy Review Criteria

The City Council will consider economic inducements in the context of tax abatement applications received under Michigan statute based on the following general policy criteria and more specific tax abatement provisions. These standards will be equally applied during the review of abatement applications from eligible local and out-of-town industries and businesses.

- *The project will promote diversification of the City of Portage economy and tax base;*
- *The project will promote revitalization of aging and/or obsolete buildings and facilities;*
- *The project for which the tax abatement is requested will provide a diverse employment base for the workforce;*
- *The development or redevelopment of a proposed industrial facility, or the revitalization of an existing business facility, will be consistent with community land use objectives and environmental objectives.*
- *The expanded or new industrial facility, or the revitalized commercial facility, can be accommodated by present and/or future requirements for city services including roads, public utilities and public safety;*
- *The applicant meets current financial obligations to the city and is in compliance with all applicable statutes and city ordinances;*
- *The applicant has no pending or current litigation against the city (including appeals to the Michigan Tax Tribunal);*
- *A public purpose would be served (i.e. to expand the tax base, promote income growth and capital investment in the community, to develop/expand technology, advance manufacturing, life science and other targeted business with an anticipated future growth, create new/retain existing jobs, as well as any applicable multiplier effects of additional employment associated with a project);*
- *City Council finds that the project impacts, including benefits, costs and environmental impacts of the proposed industrial facility, will benefit the community and will not result in the impairment of the operation or the financial soundness of any taxing jurisdiction.*

The above-mentioned criteria are not intended to be exhaustive and the Portage City Council reserves the right to consider such additional criteria, which are intended under these goals and objectives that promote the general health, safety, and welfare principles of the City of Portage. Periodic review of this policy will be necessary to ensure consistency with the community objectives and needs.

## Industrial Tax Abatement Application Information

The following sections reference the framework for processing and considering industrial tax abatement applications as provided under Public Act 198 of 1974, Plant Rehabilitation and Industrial Development Districts Act, as amended. This policy, these procedures, and related provisions will assist the industrial community in the continuing effort to contribute to the health and vibrancy of the City of Portage. The following sections address:

1. Process for Consideration of an Industrial Development or Plant Rehabilitation District Application
2. Process for Consideration of an Industrial Facilities Exemption Certificate Application
3. Industrial Tax Abatement Incentive Provisions
4. Industrial Project Reporting/Monitoring
5. Transfer of an Industrial Facilities Exemption Certificate and Certificate Revocation
6. Final Project Cost Differences
7. Time Extensions for Facility Completion
8. Dissolving an Industrial Development or a Plant Rehabilitation District

### **1. Process for Consideration of an Industrial Development District or Plant Rehabilitation District Application**

Applicants requesting establishment of an industrial development district or plant rehabilitation district must file with the City Clerk a:

- Letter of request and the current Michigan Department of Treasury Form 1012 (attached).
- Legal description, site plan and survey of the proposed district (8-1/2 inch by 11-inch file format), which will conform to the legal description boundary and site improvements necessary for the operation of the facility (including access drives, off-street parking and loading areas, water, sanitary sewer and storm water facilities).
- Construction schedule and projected cost sheet for real property improvements.
- For personal property, a complete listing of personal property investments is encouraged but not required.
- If applicable, provide a copy of the real property/facility lease(s). The term of any lease must be at least as long as the tax abatement period requested.
- Complete listing of annual salaries of the jobs expected to be created and retained within three years of project completion.
- Notarized statement that the company is in compliance with applicable environmental requirements and whether or not the company is under enforcement action by the Michigan Department of EGLE or US EPA.
- The filing fee is \$2,040 as of 2024, or two percent of the total property taxes abated under the act for the term that the industrial facilities exemption certificate is in effect, whichever is less, as specified by statute. The minimum filing fee shall be updated annually by Council resolution and this policy shall automatically update to the current annual filing fee structure. (The fee covers, in part, costs of processing the application, including legal costs, publication expenses, document retention and associated costs.)

Consistent with statutory provisions, applications for the establishment of an industrial development or plant rehabilitation district shall be filed, and can only be approved, prior to the commencement of construction, alteration, or installation of, or of an acquisition related to, the proposed replacement facility or new facility. All additional statutory requirements of PA198 of 1974, as amended, applicable to establishment of an industrial development or plant rehabilitation district must be fulfilled.

A public hearing will be scheduled by City Council to consider the application. The applicant will be notified of the date of the hearing and proper legal notices will be prepared, mailed and published by the City Clerk. The applicant must attend the public hearing for the establishment of a new district.

Final approval on the establishment of the district will be decided by City Council. The application will be reviewed by the Portage City Administration and a report will be prepared for City Council.

The report will specifically review the impacts of the proposed project on the community, which will include a:

- Preliminary environmental assessment, which will examine the availability of utilities, relevant environmental conditions, land and water resources that may be affected including impacts on adjacent properties; and
- Property tax analysis, which will estimate taxes received by affected taxing units with and without the abatement and the total abatement valuation percentage approved in the city.

## **2. Process for Consideration of an Industrial Facilities Exemption Certificate Application**

For applicants that have filed an application to create a new district, and the establishment of the new district is approved, the application will immediately proceed to consideration of the industrial facilities exemption certificate, or within not more than 60 days after establishment of a new district.

For applicants wishing to file an application for an additional industrial facilities exemption certificate within an existing district, the applicant must file the following documents to the Office of the City Clerk:

- Letter of request and the applicable Michigan Department of Treasury Form 1012 (attached).
- Legal description, site plan and survey of the proposed district (8-1/2 inch by 11-inch format), which will conform to the legal description boundary and site improvements necessary for the operation of the facility (including access drives, off-street parking and loading areas, water, sanitary sewer and storm water facilities).
- Construction schedule and projected cost sheet for real property improvements.
- For personal property, a complete listing of personal property investments is encouraged but not required.
- If applicable, a copy of the real property/facility lease(s). The term of any lease must be at least as long as the tax abatement period requested.
- A complete listing of annual salaries of the job(s) expected to be created and retained within three years of project completion.
- Notarized statement that the company is in compliance with applicable environmental requirements and whether or not the company is under enforcement action by the Michigan EGLE or US EPA.
- Copy of the Portage resolution establishing the industrial development or plant rehabilitation district.
- The filing fee is \$2,040 as of 2024, or two percent of the total property taxes abated under the act for the term that the industrial facilities exemption certificate is in effect, whichever is less, as specified by statute. The minimum filing fee shall be updated annually by Council resolution and this policy shall automatically update to the current annual filing fee structure. (The fee covers, in part, costs of processing the application, including legal costs, publication expenses, document retention and associated costs.)

Consistent with statutory provisions, applications for the consideration of an industrial facilities exemption certificate **shall be filed within six months** after the commencement of the restoration, replacement, or construction of the facility. Also, all additional statutory requirements of PA198 of 1974, as amended, applicable to the approval and granting of an industrial facilities exemption certificate must be fulfilled.

Prior to consideration of a certificate application by City Council, the statute requires the applicant to enter into a written tax abatement agreement with the City of Portage that includes conditions to be fulfilled during the period of the tax abatement. The applicant is also required to sign an affidavit with regard to fees concerning any payments made to the city. The agreement and affidavit will be provided by the city.

A public hearing will be scheduled by City Council to consider the application. The applicant will be notified of the date of the hearing and proper legal notices will be prepared, mailed and published by the City Clerk. The applicant must attend the public hearing for the industrial facilities exemption certificate.

Final approval of the certificate will be decided by City Council not more than 60 days after receipt of the application by the City Clerk. For applicants filing an application for a certificate within an existing district, the application will be reviewed by the Portage City Administration and a report prepared for City Council. The report will specifically review the impacts of the proposed project on the community, which will include a:

- Preliminary environmental assessment, which will examine the availability of utilities, relevant environmental conditions or land and water resources that may be affected including impacts on adjacent properties; and
- Property tax analysis, which will estimate taxes received by affected taxing units with and without the abatement and the total abatement valuation percentage approved in the city.

*To expedite the review process noted in steps 1 and 2 above, the public hearing to review and consider the creation of a new or expanded district; and the public hearing to review and consider an application for an exemption certificate may be scheduled at the same City Council meeting.*

### **3. Industrial Tax Abatement Incentive Provisions**

The following incentives are considered inducements to encourage eligible industrial investment in the community:

1. An industrial development district or plant rehabilitation district may be established, and an industrial facilities exemption certificate may be recommended for approval, only when the new or replacement facility is located:
  - a. within the general industrial areas, and qualified research and development areas, identified in the Portage Comprehensive Plan, Future Land Use Plan map or current zoning map; and
  - b. where municipal water and sewer utility services are available, or the utilities will be extended to the proposed industrial facility, and the proposed industrial facility will be, upon completion, connected to municipal services.
2. The term of an Industrial Facility Exemption Certificate for a project involving real property improvements within new or replacement facilities will be **up to six years after completion** except as may be increased by City Council consistent with the following subsection numbers 3 and 4 below. Additional construction time requests will be evaluated by the City Administration prior to submission to City Council.
3. City Council may grant one additional **up to three-year time period** to an applicant that proposes:
  - To locate in an underutilized industrial facility that has been vacant for more than one year. (This additional period of time is not applicable to an existing industry that relocates from an existing industrial facility in Portage to the underutilized facility, except that an expansion into an underutilized facility may qualify for the additional three-year period.); or
  - To complete an investment in real property that exceeds \$10 million; or
  - To create 50 or more new jobs with the *median annual salary* above 80% of the Kalamazoo County Area Median Income for a one-person household; or

- To create a minimum of 25 new jobs, *all* of which have an annual salary above 80% of the Kalamazoo County Area Median Income for a one-person household.

4. City Council may grant one additional, **up to six-year time period**, to an applicant that proposes:

- To complete an investment in real property that exceeds \$20 million; or
- To create 100 or more new jobs with the *median annual salary* above 80% of the Kalamazoo County Area Median Income for a one-person household; or
- To create a minimum of 50 new jobs, *all* of which have an annual salary above 80% of the Kalamazoo County Area Median Income for a one-person household.

5. Speculative buildings are permitted within Industrial Development Districts. MCL 207.533 (8b) requires that a speculative building be constructed before a specific user is identified. A Speculative Building means a new building that meets all of the following criteria and the machinery, equipment, furniture, and fixtures are located in the new building:

- a. the building is owned by or approved as a speculative building by resolution of a local governmental unit in which the building is located or the building is owned by a development organization and located in the district of the development organization.
- b. the building is constructed for the purpose of providing a manufacturing facility before the identification of a specific user of that building.
- c. the building does not qualify as a replacement facility.
- d. the speculative building was constructed less than nine years before the filing of the exemption certificate.
- e. the speculative building has not been occupied since the completion of construction

6. Consistent with statutory provisions that allow additional abatement periods, but limits the total abatement periods to 12 years, the owner, or lessee of the new or replacement facility may, within the final year in which the certificate is effective, apply for one additional certificate, the time period of which will not exceed three additional years. In considering the request, the City Council may approve the additional period if the applicant has fulfilled all the terms of the original tax abatement agreement and exceeds either of the following:

- a. The number of new jobs promised or the number of jobs retained, or  
The estimated project cost (investment) as indicated in the initial industrial facilities exemption certificate application, and the additional abatement period does not impair the operation, or the financial soundness, of any local taxing jurisdiction.

#### **4. Industrial Project Reporting/Monitoring**

Consistent with the terms of the tax abatement agreement, an industrial facilities exemption certificate holder must submit an annual project performance report to the City Manager's Office on or before July 1 of each year for the term of the agreement. The City Assessor will prepare a summary of all active tax abatement certificates for information, follow-up and monitoring.

City Council will receive the official report from each certificate holder that sets forth the progress in attaining and maintaining the requirements of the tax abatement agreement and the provisions of the certificate application.

In the event that the annual project performance report is not received by the City Manager's Office and/or the City Council finds that the certificate holder is not in compliance with the commitments made in the tax abatement agreement, City Council may take action to request revocation of the certificate from the State Tax Commission in a manner consistent with PA198 of 1974, as amended.

All annual reports from certificate holders will be available for public inspection at the Office of the City Clerk. A Master List of all current tax abatement holders and a map of existing Industrial Development District will also be available via the City of Portage website at [www.portagemi.gov](http://www.portagemi.gov).

Consistent with statutory provisions, if the taxes applicable to real property are not timely paid, and after notice and service upon the owner of a certificate of nonpayment, the industrial facilities exemption certificate will be automatically terminated as provided in PA198 of 1974, as amended.

## **5. Transfer of an Industrial Facilities Exemption Certificate and Certificate Revocation**

The transfer of an existing industrial facilities exemption certificate by the holder of a certificate to a new owner or lessee requires the filing of an application for an industrial facilities certificate, payment of the established filing fee, public hearing, approval by City Council and approval by the State Tax Commission. The application will be processed in the same manner as an industrial facilities exemption certificate application as provided in PA198 of 1974, as amended.

The revocation of an existing industrial facilities exemption certificate will be considered by the City Council and a resolution requesting that the State Tax Commission revoke the certificate if:

- a. The proposed industrial facility has not been completed within two years after the effective date of the industrial facilities exemption certificate; or
- b. The purpose for which the certificate was issued is not being fulfilled as a result of a failure of the certificate holder to proceed in good faith with the replacement, restoration, construction, or operation of the facility.

## **6. Final Project Cost Differences**

Consistent with the Administrative Rules of the State Tax Commission, if the final project cost will be greater by more than 10 percent of the total estimated amount specified in the industrial facilities exemption certificate application as originally approved, the applicant must file a letter of request with the City Clerk requesting approval of the revised amount. The letter must indicate the original costs and the revised costs and provide an explanation. This procedure cannot be used to expand the scope of the project as originally approved. City Council will review the request and if a resolution is adopted that approves the revised costs, the certificate holder can request that the State Tax Commission issue a revised certificate.

## **7. Time Extensions for Facility Completion**

Consistent with the Administrative Rules of the State Tax Commission, if the certificate holder finds that the project will not be finished by the time originally indicated on the approved application, the applicant must file a letter of request with the City Clerk requesting approval of the extension. The letter must state the original completion date, the revised completion date and must provide an explanation. City Council may approve, disapprove, or may approve with conditions, a revised certificate ending date. It is the City Council policy to approve a time extension with no change in the ending date to the original certificate, unless there are extenuating circumstances presented by the applicant that are acceptable. City Council will review the request and, if a resolution is adopted that

approves the time extension request, the certificate holder can request that the State Tax Commission grant an extension.

## **8. Dissolving an Industrial Development District or Plant Rehabilitation District**

City Council may, upon its own initiative, abolish a district if the Industrial Facilities Exemption Certificate application is not filed within two years of the date that City Council established the district, or if the applicable certificate is no longer in effect, or if the applicable certificate has been revoked by the State Tax Commission. Prior to dissolution of the district, a public hearing will be held by City Council. The City Clerk will provide written notice of the public hearing, by certified mail, to the owner of record of the property within the district, to the applicant who originally submitted the industrial development district or plant rehabilitation district application and to the affected taxing jurisdictions. If City Council adopts a resolution that dissolves the district, the City Clerk will forward the resolution to the State Tax Commission.

Attachment: Michigan Department of Treasury form 1012