22. ABSENCES AT COUNCIL MEETINGS

A. Council members who are unable to attend a Council meeting and desire an excused absence shall notify the Mayor, City Manager, City Attorney or City Clerk of their absence in writing prior to the meeting and indicate the reason for the absence. The reason shall be entered in the proceedings of the Council at the time of each absence.

B. In the event of an absence of a Council member at a meeting, the City Manager is directed to supply such absent Council member with information about any special meetings that may have been scheduled.

23. SUSPEND RULES

The Rules of Procedure may be waived by a simple majority.

24. COUNCIL DISCUSSION

No member of Council shall speak a second time on any item under discussion until all other members desiring to speak on that item have been heard. No member of Council shall be allowed to speak for more than five (5) minutes at a time.

25. AGENDA ITEMS SUBMITTED BY COUNCIL MEMBERS

Mayor and Council Members submitting an agenda item that calls for a vote shall send the item to the City Manager in a timely manner in writing. Staff professional opinion may be written to accompany the item. Rule 17 would govern, limiting any presentations to 15 minutes.

26. VIDEO AND AUDIO PRESENTATIONS

Video and Audio Presentations may not be submitted for presentation at a Council meeting unless submitted to the Troy City Clerk by noon on the day of the meeting. Inappropriate material will be prohibited.

27. CONTINUED AGENDA ITEMS NOT CONSIDERED BEFORE 12:00 AM

Any item on the Council agenda that has not been discussed by 12:00 AM of the morning following the beginning of the meeting shall be continued to the next regular meeting as a Carryover Item, unless City Council takes action to the contrary.

28. VIOLATIONS

The City Clerk shall be responsible for reporting violations of time limitations or speaking sequence to the Chair.

29. WIRE COMMUNICATIONS BY AND TO COUNCIL MEMBERS DURING ANY MEETING OF COUNCIL

All communications are subject to the Michigan Open Meetings Act, therefore members of the City Council shall not engage in any form of wire communication, as defined by U.S. Code Title 18, Part I, Chapter 119, Section 2510, during any meeting of the Council.

Members of Audience Addressing Council

Upon the request of a member of the Council, a member of the audience shall be permitted to address the Council at a time other than during public commentary, unless a majority of members of Council object.

Disorderly Conduct at Meetings

The Chair may call to order any person who engages in personal attacks, (which are unrelated to Council Business) who uses obscene or grossly indecent language, who speaks longer than the allotted time, who disrupts the proceedings or who otherwise violates the rules of this Council. Failure to come to order may result in the microphone being shut off, the forfeiture of any remaining speaking time, or, at the request of the Chair, expulsion from the meeting.

Furthermore, if a speaker or a member of the public does not follow applicable rules during a Council meeting, disturbs the peace at a Council meeting or endangers the safety of the Council or the public at a council meeting, that individual may also have further restrictions placed upon them as necessary, including forfeiture of their right to speak at or right to attend future Council meetings. Such actions are to be determined by Council and shall be consistent with the Michigan Open Meetings Act.

RULE 8 - Voting

In all cases where a vote is taken, the Chair shall decide that result. A roll call vote shall be called upon the request of any member of the Council. The roll call voting order shall rotate around the council table with the Mayor voting in the rotation.

RULE 9 - Nominations or Appointments to Boards, Commissions or Committees

Nominations or appointments to boards, commissions, or committees, which require the confirmation or approval of Council, shall not be confirmed or approved before the next regular meeting of the Council except with the consent of 8 of the members of the Council. When required by ordinance or otherwise deemed in the best interest of the City, the Charter residency requirement for nomination or appointment of an individual to a board, commission or committee is waived by a resolution concurred in by not less than seven members of Council.

RULE 10 - Council Conduct of Discussion and Debate

- No member shall speak until recognized for that purpose by the Chair.
- The member shall confine comments to the question at hand and avoid personal attacks.
- A member shall not speak more than two times on a given question (three minutes the first time, three minutes the second time), except with the concurring vote of 3/4 of the members present. A motion to call the previous question (call for cloture) is in order after thirty (30) minutes of discussion on the question. Upon a motion to call the previous question, all discussion is ended, provided that each member who has not yet held the floor will have an opportunity to do so. A motion to call the previous question shall require a concurring vote of 3/4 of the members present.
- Electronic communication during Council meetings shall pertain only to City matters.

- During Council meetings, members shall not send private electronic communication to persons other than City Staff; provided however, that members may send draft motions, resolutions, and amendments to the City Clerk who will forward them to members of Council. Members shall not respond to member-distributed draft language via electronic communication. All draft language sent by electronic communication during Council meetings shall be read into the record prior to discussion by Council. Members will not send publicly-accessible electronic communications (e.g. Twitter and FaceBook posts) during meetings.

- Electronic communication sent and received by a member during a Council meeting shall be included in the minutes of such meeting, provided that the minutes shall not include electronic communication received by a member that clearly does not relate to the subject matter of the meeting.

- A member shall not use their personal mobile devices to answer phone calls or send electronic communications, including text messages, while seated at the Council table. Members who have a need to attend to personal business shall step away from the Council table to do so.

RULE 11 - Resolutions and Motions to Be Made In Writing

Every resolution and ordinance shall be in writing. Resolution titles shall, unless impractical or required by law, be twenty (20) words or less and describe in plain language the subject matter thereof. When any motion has been made and seconded, it shall be stated by the Chair and shall not be withdrawn thereafter except by consent of the majority of the members of the Council present.

RULE 12 - Motion to Lay on the Table

A motion to table shall only be in order "when something else of immediate urgency has arisen or when something else needs to be addressed before consideration of the pending question is resumed" (RROR Newly Revised in Brief, p. 119) and the name of the person making the motion and the rationale for tabling should appear in the minutes.

RULE 13 - Consideration of Questions

When a question has been taken, it shall be in order for any member voting with the prevailing side to move a reconsideration thereof at the same or the next regular meeting; but, no question shall a second time be reconsidered.

Agenda Items – Introduction, Referral, and Approval

MML

Sample Rules of Procedure

A. Regular and special meetings

All meetings of the city/village council will be held in compliance with state statutes, including the Open Meetings Act, 1976 PA 267 as amended, and with these rules.

1. Regular meetings

Regular meetings of the city/village council will be held on _____ of each month beginning at _____ p.m. at the city/village office unless otherwise rescheduled by resolution of the council. Council meetings shall conclude no later than _____ p.m., subject to extension by the council.

2. Special meetings

A special meeting shall be called by the clerk upon the written request of the mayor/president or any three members of the council on at least 24 hours' written notice to each member of the council served personally or left at the councilmember's usual place of residence. Special meeting notices shall state the purpose of the meeting. No official action shall be transacted at any special meeting of the council unless the item has been stated in the notice of such meeting.

3. Posting requirements for regular and special meetings

a. Within 10 days after the first meeting of the council following the election, a public notice stating the dates, times and places of the regular monthly council meetings will be posted at the city/village offices. [Villages without a principal office must post in the county clerk's office.]

b. For a rescheduled regular or a special meeting of the council, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting at the city/village office. [Villages without a principal office must post in the county clerk's office.]

c. The notice described above is not required for a meeting of the council in emergency session in the event of a severe and imminent threat to the health, safety or welfare of the public when two-thirds of the members of the council determine that delay would be detrimental to the village's efforts in responding to the threat.

[The Michigan Open Meetings Act requires that copies of the notice of public meetings be provided by first-class mail upon request and payment of a reasonable yearly fee for the costs of printing and postage. Section d. could be added here to indicate the fee determined by the council for these costs.]

4. Minutes of regular and special meetings

The clerk shall attend the council meetings and record all the proceedings and resolutions of the council in accordance with [Section 64.5 of the General Law Village Act of 1895 as amended and] the Open Meetings Act. In the absence of the clerk, the council may appoint one of its own members or another person to temporarily perform the clerk's duties.

Within 15 days of a council meeting a synopsis showing the substance of each separate decision of the council or the entirety of the council proceedings shall be prepared by the clerk and shall indicate the vote of the councilmembers. After the mayor/president approves this document, it shall be published in a newspaper of general circulation in the city/village or posted in three public places in the city/village.

A copy of the minutes of each regular or special council meeting shall be available for public inspection at the village offices during regular business hours.

5. Study sessions

Upon the call of the mayor/president or the council and with appropriate notice to the councilmembers and to the public, the council may convene a work session devoted exclusively to the exchange of information relating to municipal affairs. No votes shall be taken on any matters under discussion nor shall any councilmember enter into a formal commitment with another member regarding a vote to be taken subsequently.

B. Conduct of meetings

1. Meetings to be public

All regular and special meetings of the council shall be open to the public, and citizens shall have a reasonable opportunity to be heard in accordance with such rules and regulations as the council may determine, except that the meetings may be closed to the public and the media in accordance with the Open Meetings Act.

All official meetings of the council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

2. Agenda preparation

An agenda for each regular council meeting shall be prepared by the mayor/president with the following order of business:

a. Call to order and roll call of council

b. Public hearings on ordinances under consideration

c. Brief public comment on agenda items

d. Approval of consent agenda

e. Approval of regular agenda

f. Approval of council minutes

g. Submission of bills

h. Communications to the council

i. Reports from council committees

j. Reports from officers as scheduled, e.g. manager, attorney, etc.

k. Unfinished business

l. New business

m. Announcements

n. Adjournment

Any councilmember shall have the right to add items to the regular agenda before it is approved.

3. Consent agenda

A consent agenda may be used to allow the council to act on numerous administrative or noncontroversial items at one time. Included on this agenda can be noncontroversial matters such as approval of minutes, payment of bills, approval of recognition resolutions, etc. Upon request by any member of the council, an item shall be removed from the consent agenda and placed on the regular agenda for discussion.

4. Agenda distribution

[This section should explain when and how councilmembers will receive their agendas.]

5. Quorum

A majority of the entire elected or appointed and sworn members of the council shall constitute a quorum for the transaction of business at all council meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date with appropriate public notice.

6. Attendance at council meetings

Election to the city/village council is a privilege freely sought by the nominee. It carries with it the responsibility to participate in council activities and represent the residents of the city/village. Attendance at council meetings is critical to fulfilling this responsibility. A general law village council is empowered by Section 65.5 of the General Law Village Act as amended to adjourn a meeting if a quorum is not present and compel attendance in a manner prescribed by its ordinance.

The council may excuse absences for cause. If a councilmember has more than three unexcused successive absences for regular or special council meetings, the council may enact a resolution of reprimand. In the event that the member's absences continue for more than three additional successive regular or special meetings of the council, the council may enact a resolution of censure or request the councilmember's resignation or both.

7. Presiding officer

The presiding officer shall be responsible for enforcing these rules of procedure and for enforcing orderly conduct at meetings. The mayor/president is ordinarily the presiding officer. The council shall appoint one of its members mayor/president pro tempore, who shall preside in the absence of the president. In the absence of both the mayor/president and the mayor/president pro tempore, the member present who has the longest consecutive service on the council shall preside.

8. Disorderly conduct

The mayor/president may call to order any person who is being disorderly by speaking out of order or otherwise disrupting the proceedings, failing to be germane, speaking longer than the allotted time or speaking vulgarities. Such person shall be seated until the chair determines whether the person is in order.

If the person so engaged in presentation is called out of order, he or she shall not be permitted to continue to speak at the same meeting except by special leave of the council. If the person shall continue to be disorderly and disrupt the meeting, the chair may order the sergeant at arms to remove the person from the meeting. No person shall be removed from a public meeting except for an actual breach of the peace committed at the meeting.

[It is suggested that there be an ordinance governing disruption of public meetings, prepared with advice of the municipal attorney and the municipal liability insurance carrier on the risks, limits and force allowed to eject members. This ordinance should stipulate the procedure to be followed and the resource to be used for the sergeant-at-arms function, e.g. local police, county sheriff, etc. By planning in advance how to handle attempted disruptions, you can keep the meeting in order.]

C. Closed meetings

1. Purpose

Closed meetings may be held only for the reasons authorized in the Open Meetings Act, which are the following:

a. To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent when the named person requests a closed meeting.

b. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement when either negotiating party requests a closed hearing.

c. To consider the purchase or lease of real

property up to the time an option to purchase or lease that real property is obtained.

d. To consult with the municipal attorney or another attorney regarding trial or settlement strategy in connection with specific pending litigation, but only when an open meeting would have a detrimental financial effect on the litigating or settlement position of the council.

e. To review the specific contents of an application for employment or appointment to a public office when a candidate requests that the application remain confidential. However, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting.

f. To consider material exempt from discussion or disclosure by state or federal statute.

2. Calling closed meetings

At a regular or special meeting, the councilmembers, elected or appointed and serving, by a two-thirds roll call vote may call a closed session under the conditions outlined in Section C.1 of the Open Meetings Act. The roll call vote and purpose(s) for calling the closed meeting shall be entered into the minutes of the public part of the meeting at which the vote is taken.

3. Minutes of closed meetings

A separate set of minutes shall be taken by the clerk or the designated secretary of the council at the closed session. These minutes will be retained by the clerk, shall not be available to the public, and shall only be disclosed if required by a civil action, as authorized by the Michigan Open Meetings Act. These minutes may be destroyed one year and one day after approval of the minutes of the regular meeting at which the closed session was approved.

D. Discussion and voting

1. Rules of parliamentary procedure

The rules of parliamentary practice as contained in the latest edition of [Robert's Rules of Order or an alternative source of procedural rules] shall govern the council in all cases to which they are applicable, provided that they are not in conflict with these rules, city/village ordinances or applicable state statutes. The mayor/president may appoint a parliamentarian.

The chair shall preserve order and decorum and may speak to points of order in preference to other council-members. The chair shall decide all questions arising under this parliamentary authority, subject to appeal and reversal by a majority of the councilmembers present.

Any member may appeal to the council a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state the reason for the appeal and the presiding officer may briefly state the ruling. There shall be no debate on the appeal and no other member shall participate in the discussion. The question shall be, "Shall the decision of the chair be sustained?" If the majority of the members present vote "aye," the ruling of the chair is sustained; otherwise it is overruled.

2. Conduct of discussion

During the council discussion and debate, no member shall speak until recognized for that purpose by the chair. After such recognition, the member shall confine discussion to the question at hand and to its merits and shall not be interrupted except by a point of order or privilege raised by another member. Speakers should address their remarks to the chair, maintain a courteous tone and avoid interjecting a personal note into debate.

No member shall speak more than once on the same question unless every member desiring to speak to that question shall have had the opportunity to do so.

The chair, at his or her discretion and subject to the appeal process mentioned in Section D.1., may permit any person to address the council during its deliberations.

3. Ordinances and resolutions

No ordinance, except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code or an ordinance adopting a code of ordinances, shall relate to more than one subject, and that subject shall be clearly stated in its title.

A vote on all ordinances and resolutions shall be taken by a roll call vote and entered in the minutes unless it is a unanimous vote. If the vote is unanimous, it shall be necessary only to so state in the minutes, unless a roll call vote is required by law or by council rules.

4. Roll call

In all roll call votes, the names of the members of the council shall be called in alphabetical order. [Names may be called with all names in alphabetical order or alphabetical order with the president voting last or the council may select another system.]

5. Duty to vote

Election to a deliberative body carries with it the obligation to vote. Councilmembers present at a council meeting shall vote on every matter before the body, unless otherwise excused or prohibited from voting by law. A councilmember who is present and abstains or does not respond to a roll call vote shall be counted as voting with the prevailing side and shall be so recorded, unless otherwise excused or prohibited by law from voting.

Conflict of interest, as defined by law, shall be the sole reason for a member to abstain from voting. The opinion of the city/village attorney shall be binding on the council with respect to the existence of a conflict of interest. A vote may be tabled, if necessary, to obtain the opinion of the city/village attorney.

The right to vote is limited to the members of council present at the time the vote is taken. Voting by proxy or by telephone is not permitted.

All votes must be held and determined in public; no secret ballots are permitted.

6. Results of voting

In all cases where a vote is taken, the chair shall declare the result.

It shall be in order for any councilmember voting in the majority to move for a reconsideration of the vote on any question at that meeting or at the next succeeding meeting of the council. When a motion to reconsider fails, it cannot be renewed.

E. Citizen participation

1. General

Each regular council meeting agenda shall provide for reserved time for audience participation.

If requested by a member of the council, the presiding officer shall have discretion to allow a member of the audience to speak at times other than reserved time for audience participation.

2. Length of presentation

Any person who addresses the council during a council meeting or public hearing shall be limited to _____ minutes in length per individual presentation. The clerk will maintain the official time and notify the speakers when their time is up.

3. Addressing the council

When a person addresses the council, he or she shall state his or her name and home address. Remarks should be confined to the question at hand and addressed to the chair in a courteous tone. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.

F. Miscellaneous

1. Adoption and amendment of rules of procedure

These rules of procedure of the council will be placed on the agenda of the first meeting of the council following the seating of the newly elected councilmembers for review and adoption. A copy of the rules adopted shall be distributed to each councilmember.

The council may alter or amend its rules at any time by a vote of a majority of its members after notice has been given of the proposed alteration or amendment.

2. Suspension of rules

The rules of the council may be suspended for a specified portion of a meeting by an affirmative vote of
two-thirds of the members present except that council actions shall conform to state statutes and to the
Michigan and the United States Constitutions.

3. Bid awards

Bids will be awarded by the council during regular or special meetings. A bid award may be made at a special meeting of council if that action is announced in the notice of the special meeting.

4. Committees

a. Standing and special committees of council

The city/village shall have the following standing committees:

[Committees should be listed by name and with a definition of their purposes and scopes.]

Committee members will be appointed by the mayor/president. They shall be members of the council. The mayor/president shall fill any committee vacancies. The committee member shall serve for a term of one year and may be re-appointed.

Special committees may be established for a specific period of time by the mayor/president or by a resolution of the council which specifies the task of the special committee and the date of its dissolution.

b. Citizen task forces

Citizen task forces may be established by a resolution of the council which specifies the task to be accomplished and the date of its dissolution. Members of such committees will be appointed by the mayor/president, subject to approval by a majority vote of the council and must be residents of the city/village. Vacancies will be filled by majority vote of the council in the same way appointments are made.

5. Authorization for contacting the city/village attorney

The following officials (by title) are authorized to contact the city/village attorney regarding municipal matters:

_____

_____

_____

_____

RULES OF THE CITY COUNCIL
Review February 4, 2015

A. REGULAR AND SPECIAL MEETINGS

All meetings of the City Council will be held in compliance with state statutes, including the **Open Meetings Act**, Public Act 267 of 1976 as amended, and with these rules.

1. Regular Meetings

Regular meetings of the City Council will be held on the 1st and 3rd Monday of each month beginning at 7:00 PM at the Council Chamber at 311 S. Main, Chelsea, Michigan, or such other location as may be noticed in accordance with Section 3, hereafter.

2. Special Meetings

A special meeting shall be called by the City Clerk upon the written request of the Mayor or any three members of the Council on at least 24 hours written notice to each member of the Council served personally or left at the council member's usual place of residence. No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting.

3. Posting Requirements for Regular and Special Meetings

A. After the first meeting of the Council following the November election a public notice stating the dates, times, and places of the regular council meetings will be posted at the City Offices.

B. For a rescheduled regular or a special meeting of the council, a public notice stating the date, time and place of the meeting shall be posted at least 18 hours before the meeting at the City Offices.

C. However, such notice, as described above, is not required for a meeting of the Council in emergency session in the event of a widespread natural disaster or a severe and imminent threat to health, safety or welfare of the public where two-thirds of the members of the Council determine that delay would be detrimental to the City's efforts in responding to the threat.

4. Minutes of Regular and Special Meetings

A. In accordance with Section 6.7 of the Charter of the City of Chelsea, a journal in the English language, of the proceedings of

each meeting shall be kept by the clerk, and shall be signed by the presiding officer and clerk of the meeting.

B. A copy of the minutes of each regular or special Council meeting shall be available for public inspection at the City Offices during regular business hours after the minutes are signed by the Clerk.

5. Study Sessions

A study session may be called under the same requirements as a Special Meeting. A study session shall be a meeting held pursuant to the Michigan Open Meetings Act. An agenda will be provided on all items to be discussed and shall serve as the official minutes of the study session. The purpose of the study session is to allow detailed consideration and discussion of agenda items. No further business shall be conducted nor shall motions be made at a study session. Discussion on agenda items may proceed in absence of a quorum.

B. CONDUCT OF MEETINGS

1. Meetings to the Public

All regular and special meetings of the City Council shall be open to the public, and citizens shall have a reasonable opportunity to be heard in accordance with such rules and regulations as the Council may determine.

2. Agenda Participation

An agenda for each regular council meeting shall be prepared by the City Manager with the assistance of the City Clerk with the following order of business:

a. Call to Order
b. Pledge of Allegiance
c. Approval of Consent Agenda Items
d. Approval of Regular Agenda
e. Citizen Agenda Items
f. Public Comments
g. Awards, Presentations & Proclamations
h. Public Hearings
i. Council Business
j. Council Reports
k. Closed Session
l. Adjournment

Council members shall have the right to add items to the regular agenda before it is approved. However, Council members are encouraged to contact the City Manager before the meeting with items they would like added to the agenda. The additional of any item, by council or staff, that includes an expenditure of funds that is not in the approved fiscal year or that may put the City in and adverse financial situation, may be presented for discussion, but approval may be delayed until the next regular council meeting.

3. Consent Agenda

Council may use a consent agenda to allow the Council to act on numerous administrative or non-controversial items at one time. Items that could be included on this agenda include non-controversial matters such as approval of minutes, payment of bills, approval of recognition resolutions, etc. Any member of Council may request that an item be removed from the consent agenda and placed on the regular agenda for discussion.

4. Agenda Distribution

The Clerk or his/her designee shall distribute Council Agendas to the following:

Mayor and Council Members
Department Heads
Washtenaw Now

5. Quorum

Four members of the Council shall constitute a quorum for the transaction of business at all Council Meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date with appropriate public notice.

6. Presiding Officer

The presiding officer shall be responsible for enforcing these rules of procedure and for enforcing orderly conduct at meetings (and may appoint a sergeant at arms). The Mayor is ordinarily the presiding officer. The City Council shall appoint one of its members Mayor pro tempore, who shall preside in the absence of the Mayor. In the absence of both the Mayor and Mayor pro tem, the Council shall appoint one of its members to preside.

7. Sergeant at Arms

The City Police are appointed the sergeant at arms for all City Council meetings.

C. CLOSED MEETINGS

1. Purpose

Closed meetings shall be held only for the reasons provided in the Open Meetings Act, which are the following:

A. To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against a public officer, employee, staff member, or individual agent **when the named person requests a closed meeting.**

B. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement **when either negotiating party requests a closed hearing.**

C. To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

D. To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but **only when an open meeting would have a detrimental financial effect on the litigation or settlement position of the Council.**

E. To review the specific contents of an application for employment or appointment to a public office **when a candidate requests that the application remain confidential.** However, all interviews by a public body for employment or appointment to office shall be held in an open meeting.

F. To consider material exempt from discussion or disclosure by state or federal statute.

1. Calling Closed Meetings

A two-thirds roll call vote of the Council members elected or appointed and serving shall be required, except under Sections A and B above. The roll call vote and purpose or purposes for calling the closed meeting shall be entered into the minutes of the meeting at which the vote is taken.

2. Minutes of Closed Meetings

A separate set of minutes shall be taken by the Clerk or the designated Secretary of the Council at the Closed Session. These minutes will be retained by the Clerk, shall not be available to the public, and shall only be disclosed if required by a civil action. These minutes may be destroyed

one year and one day after approval of the minutes of the regular meeting at which the closed session was approved.

D. DISCUSSION AND VOTING

1. Rules of Parliamentary Procedure

The rules of parliamentary practice as contained in the latest edition of **Roberts Rules of Order** shall govern the Council in all cases to which they are applicable, provided that they are not in conflict with these rules, the ordinances of the City of Chelsea or State Statutes applicable to the City of Chelsea. **Roberts Rules of Order** are not applicable to motions to reconsider tie votes or to actions on administrative proceedings where the City council acts as a quasi-judicial body, such as, a Board of Appeals or variance appeals.

The Chair shall decide all questions arising under this parliamentary authority and shall be subject to appeal, which shall be determined by a majority of the council members present. The Chair shall preserve order and decorum and may speak to points of order in preference to other council members.

During the Council discussion and debate, no member shall speak until recognized for that purpose by the Chair. After such recognition, the member shall confine discussion to the question at hand and to its merits and shall not be interrupted except by a point of order raised by another member. Speakers should address their remarks to the chair, maintain a courteous tone, and avoid interjecting a personal note into the debate.

No member shall speak more than once on the same question unless every member desiring to speak to that question shall have had the opportunity to do so. The Chair, at his or her discretion and subject to the appeal process mentioned in the preceding section, may permit any person to address the council during its deliberations. Persons invited by a council member to be present and to address the Council during its deliberations are not required to obtain the permission of the Chair. All other persons desiring to address the Council during its deliberations on a specific item, must request of the chair the privilege to address the Council on that item before or during the audience participation section of the agenda.

2. Conduct of Discussion – Rules of Engagement

Rules of Engagement are the protocol for the City Council interactions and communications with the prescribed individuals and categories of people with whom they direct, interact with, and serve.
These rules are not intended to discourage free discussion and communication with the City Council or individual members thereof. Rather they establish a code of decorum intended to facilitate and enhance the effectiveness of those communications, and to ensure that the policies and directives of the City Council are carried out timely, accurately and efficiently.

Guiding Principles of Communication

The City Council shall adhere to high levels of professionalism and ethical standards, both individually and as a Council, in all its communications and interactions both formal and informal within their official capacities. These communications will be guided by the following general principles:

The City Council commits to treat all individuals who appear before them or do business with or on behalf of the City with respect, courtesy, honesty and integrity.

The City Council shall strictly adhere to and abide by the requirements of the Michigan Open Meetings Laws and strive for complete transparency and accountability in its decision making and conduct of day-to-day City business.

Direction and decision-making by the City Council shall occur as a council. Individual members of the Council shall not attempt to exercise independent authority over the City Manager, City Attorney, director, official or employee thereof.

Communication By and Between Council Members

The City Council holds itself to the highest standards of honesty and integrity and commits to abide by both the spirit and the letter of the Chelsea City Code of Ethics (Employee Handbook Section 2). The City Council recognizes that the actions of one City Council member can affect the reputation and integrity of the City Council as a whole. If a City Council member suspects a violation of City Council policy or applicable law by another City Council member, s/he shall bring the matter to the

attention of the City Council member and the City Council, and work to resolve the matter expeditiously.

If an interpersonal conflict or problem develops amongst individual members of the City Council, initially, such members shall work with only the people involved and strive to settle the conflict or problem in a constructive manner.

Full disclosure and communication amongst City Council members is necessary to enable the City Council to work together to advance the interest of Chelsea City citizens, taxpayers, and government. To insure that all City Council members are informed, the City Council commits to promptly communicate with one another concerning issues affecting the integrity, interests, and/or operation of Chelsea City government.

Citizen trust in government is critically important, and the City Council recognizes that a key to building and maintaining that trust is to place a high value on respecting other City Council members and those with whom the City Council works and serves. To that end, the City Council agrees to communicate openly with one another, to take others' concerns seriously, to work together as a team, and to make an effort not just to listen but to try to understand the points of views of others.

Members of the City Council must represent unconflicted loyalty and accountability to the interests of all citizens of Chelsea City. City Council members will respect and support the legitimacy and authority of all City Council decisions, regardless of any City Council member's personal position on a matter.

Compliance by Council Members -Disciplinary Measures

This policy is intended to encourage and promote the highest standards of ethical conduct and behavior by members of the Chelsea City Council and the Council has the right to enforce its rules and expect ethical and honorable conduct from its members.

The Chelsea City Council has the right to enforce its rules. The action can include, but not limited to, removing a member from the Council Chambers, censure, and holding a trial.

3. Ordinances and Resolutions

A vote on all ordinances and resolutions shall be taken by a roll call vote and entered into the minutes unless it is a unanimous vote. If the vote is unanimous, it shall be necessary only to so state in the minutes.

4. Roll Call and Abstention

In all roll call votes, the names of the members of the Council shall be called.

No member of the Council shall vote on any question in which he or she has a direct or indirect financial interest other than the common public interest or on any question concerning his own conduct. On all other questions, each member who is present shall vote when his or her name is called unless excused by the unanimous consent of the remaining members present.

5. Results of Voting

In all cases where a vote is taken, the Chair shall declare the results.

It shall be in order for any council member voting in the majority to move for a reconsideration of the vote on any question at that meeting or at the next succeeding meeting of the council, except in the case of tie votes, when any member may move for reconsideration. When a motion to reconsider fails, it cannot be renewed.

E. CITIZEN PARTICIPATION

1. General

Each Council meeting agenda shall provide for reserved time for audience participation, if requested, in addition to an opportunity for general audience participation.

2. Reserved Time Participation

Any person or group wishing to make an oral communication to the Council and notifying the City Clerk or Manager not later than 3:00 p.m. on the day of a council meeting will be granted up to five minutes reserved time. A group may reserve time without indicating any specific speaker.

The presiding officer shall have discretion to allow a member of the audience to speak, if requested by a member of the Council.

3. Length of Presentation

All presentations before the City Council shall be limited to five minutes in length per individual presentation. The Clerk will maintain the official time and notify the speakers when their time is up.

4. Addressing the Council

Persons addressing the City Council should state their name and home address. They should confine discussion to the question at hand and to its merits. Speakers should address their remarks to the chair, maintain a courteous tone, and avoid interjecting a personal note into the debate. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.

5. Non-reserved Audience Participation

Any person who wishes to speak and who did not reserve time may speak at this point on the agenda. All rules of conduct still apply.

6. Public Hearing

The provisions in paragraph 2 above shall not apply to declared public hearings, during which members of the audience may address the Council upon the subject of the public hearing.

F. MISCELLANEOUS

1. Adoption and Amendment of Rules and Procedure

The rules of procedure of the City Council will be reviewed and adopted at the first meeting of the Council following the seating of the Council members elected in November. A copy of the rules adopted shall be distributed to each council member.

2. Suspension of Rules

The rules of the City Council may be suspended for a specific portion of a meeting by a majority of the members present except that council actions shall conform to state statutes and to the Michigan and the United States Constitution.

3. Bid Award and Bid Openings

Bid openings will take place as advertised in the request for bids. A recommendation will be made to the City Council from the City Manager, City Department Head and/or the City Consultant following the reviewing of the bids.

Bids will be awarded by the City Council during regular meetings. A bid award may be made at a special meeting of council if that action is announced in the notice of the special meeting.

AGENDA

BOARD OF THE CHARTER TOWNSHIP OF WEST BLOOMFIELD
BUDGET MEETING

Monday, December 4, 2017, 6:00 P.M.

4550 Walnut Lake Road
West Bloomfield, MI 48323
Telephone: (248) 451-4848

Website: www.wbtownship.org

Debbie Binder
Township Clerk

BOARDROOM

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL OF AGENDA**
5. **PUBLIC COMMENT** *(non-agenda related items - 2 minutes per speaker)*
6. **APPROVAL** of Proclamation, in Memoriam, Honoring the Life of Morris Margulies, West Bloomfield Real Estate Developer
7. **BUDGET PRESENTATION** 48th District Court
8. **BUDGET ITEMS**
   A. Presentation and Review of Pension
   B. Review of Retiree Health Care
   C. Review of Grant Funds
9. **PUBLIC HEARING** regarding Proposed 2018 Budget
   A. 2018 Budget
   B. General Appropriations Act
   C. Special Appropriations Act
10. **APPROVAL** of 2017 Projected Budget as the 2017 Amended Budget

11. CONSENT AGENDA

A. Approval of Minutes – Regular Meeting – Monday, November 20, 2017

B. Approval of **Introduction** of Ordinance No. C-754-B, Marihuana Enterprises, Businesses, and Facilities, an Ordinance to Amend the Code of Ordinances, Chapter 2, Administration, Article VII, Moratoriums, Division 1, Marihuana Enterprises Businesses, and Facilities, Section 2-303, to Extend the Moratorium on Medical Marihuana Enterprises, Businesses, and Facilities

12. PUBLIC COMMENT *(non-agenda related items - 2 minutes per speaker)*

13. ADJOURNMENT

MEETING GUIDELINES AND RULES

1. Adhere to the most recently published Roberts Rules of Order. Be recognized by the Chair before speaking. Rudeness shall not be tolerated. Speak to agenda issues only – except during Public Comment. Motions should be made before discussion of the topic. (This does NOT apply to appeals.) The Clerk will ask individuals to speak into the microphone if needed.
2. Public Comment on non-related agenda items will be heard at the beginning or the end of the meeting with a 2 minute time limit per person. A member of the public (omit person) may speak during one of the Public Comment periods only. Both Public Comment agenda items are reserved for the public.
3. Individuals speaking at any publicly held meeting, including township board meetings, and board and commission meetings, shall be required to state their name and indicate whether they are a resident or non-resident. Speakers are not required to provide their address. (Adopted by Township Board on 10/1/2012)
4. Do not interrupt the public or another Board member when they are speaking.
5. When a Public Hearing is in process, it is only for the public. Board members shall not speak until after the hearing is closed. Once the hearing is closed, comments from the public shall no longer be accepted. The procedure for a Public Hearing will be:
   a. The Department Head will state the purpose and necessity for the Public Hearing.
   b. The Chair will open the Public Hearing.
   c. The Public will state their question, comments and/or concerns. The Department Head involved in the Public Hearing will record their questions, comments and/or concerns and provide responses to the questions after all members of the Public are permitted to speak.
   d. The Chair will close the Public Hearing.
   e. Township Board Members will be permitted to speak once regarding the Public Hearing, if needed, after the close of the Public Hearing.
6. The consent agenda is intended to expedite routine Township Board business items. Elected Officials may remove an item from the Consent Agenda for the purpose of obtaining clarification, discussion and/or opposition. Consent Agenda items are not to be removed for accolades, personal comments or other personal reasons.
7. Hold all comments to 2 minutes (including Board members). Audience members may speak once per issue. Board members may speak no more than twice per issue.
8. Large groups shall appoint two or three representatives to present their pro or con position to the Board during their agenda item. (This does not apply to SADs).
9. Chairperson or his/her designee shall use a timer to keep meeting flowing.
10. Lengthy presentations should be held to a total of 30 minutes and scheduled through the Clerk.
11. Appeals from Commissions and Boards to the Township Board shall be limited to 15 minute explanations.
12. Cellular phones and pagers must be turned off during meetings.
13. Closed Sessions from visiting attorneys shall be held after the Regular meeting.
14. After a final vote on a motion – no further comments will be taken from anyone.
15. No new agenda item will commence after 10:00 P.M.
16. Any changes will be at the discretion of the Chair.
17. Board Members will not consume food at the Board table.
18. The Chair will maintain order according to the rules at all times. The Chair will call to order any member of the board who does not wait to be recognized or who otherwise does not follow the rules. The Chair may call a recess to regain order.

The Township of West Bloomfield will provide necessary, reasonable auxiliary aids and services upon proper notification to the Township Clerk or the Development Services Director at 4550 Walnut Lake Road, West Bloomfield, MI 48325-0130, (248) 451-4800 or TDD (248) 451-4899. Such services provided include:

- Hearing impaired sound systems & receivers – [notify one (1) day prior to meeting of interest]
- Signers for the hearing impaired – [provide two (2) weeks advance notice]

- Government
  - Agendas & Minutes
  - Boards & Commissions
  - City Council
  - City Council Agenda Item Request
  - City Council Feedback Form
  - City Council Meeting Inquiry/Input Form
  - City Council Meeting Rules of Procedure
  - City Council Meeting Video
  - Code of Ordinances
  - Zoning Ordinance
  - City Charter
  - City, Village, and Township Revenue Sharing Program
  - Links of Interest
  - Meeting Dates

City Council Meeting Rules of Procedure

Brighton City Council Meeting Rules of Procedure
Officially adopted by the Brighton City Council on August 7, 2008

INTRODUCTION:
It is the purpose of these City Council Meeting and Call to the Public Rules of Procedure to encourage public participation in an orderly manner which gives everyone a reasonable opportunity to present his or her point of view for consideration by the City Council. The public is invited to speak on issues before the City Council during scheduled public hearings and during the call to the public. Items on the agenda or other topics can be addressed during call to the public. The call to the public is not for the purpose of conducting a debate between the City Council and citizens. Citizen's questions will be answered immediately in the call to the public in which the question is asked if they can be answered immediately. If a question cannot be answered immediately/quickly, then the City Council will defer answering the question until later in the City Council Meeting after the call to the public or to a future City Council meeting.

Individuals may request that an item be placed on the City Council agenda by submitting the request in writing or on a City Council Agenda Item Request Form. The request will be submitted to the City Council for consideration. Individuals may also request that an item be placed on the agenda by contacting a member of the City Council or by speaking to the item during the call to the public at a regularly scheduled City Council meeting.

If your presentation concerns a specific complaint or suggestion, you may find it more convenient and may receive faster service if you call the appropriate City Department during regular business hours. If you have contacted the Department and for some reason results were not satisfactory, please call the Department Director or the City Manager's office. A time limit is established to be sure that everyone has an opportunity to speak and that presentations do not become repetitious. While the City Council wishes to give everyone an opportunity to express his or her point of view, it is neither necessary nor advisable for every member of a group to address the City Council. In those cases where a group is in attendance, it is suggested that one or two spokespersons be selected. The City Council attempts to make informed decisions based on all the information available rather than simply based upon the number of people who offer the same information or arguments.

RULES OF PROCEDURE

1. The Council will conduct two (2) calls to the public, one at the beginning of the meeting and one at the end of the meeting. On both occasions, the public will be able to speak on items that are or are not on the agenda.

2. An individual shall not address the City Council without first having been recognized by the Mayor.

3. Upon being recognized, the individual should proceed to the front of the room to use the microphone and state his or her full name (providing an accurate spelling), residential address, and the topic to be discussed.

4. Speakers shall be limited to a presentation of five minutes unless such period of time is extended by a vote of the City Council.

5. An individual will not be given an opportunity to speak a second time on the same issue until all others wishing to make a presentation on the subject have had an opportunity to do so.

6. Sign in sheets will be used at the discretion of the Mayor. If a sign in sheet is being utilized, members of the public wishing to speak must complete their name, address and the topic or agenda item, which they intend to speak on. Sign in sheets will be available near the agenda box. Sign in sheets must be given to the Clerk prior to the first call to the public.

7. When a person(s) becomes unruly as determined by the Mayor in the role as the Chairperson of the City Council Meeting, the Mayor may declare said person(s) in the audience to be out of order and if necessary, may rule that the individual(s) has forfeited the opportunity to speak further. A person(s) may be excluded from the meeting for breach of the peace committed at the meeting. Clapping and cheering are inappropriate.

8. These Rules of Procedure are intended to supplement Robert's Rules of Order which have been adopted by the City Council. Where inconsistencies or conflict may exist between these Rules of Procedure and Robert's Rules of Order, these Rules of Procedure shall prevail.

CITY COUNCIL MEETING AGENDA

City Council Chambers, Lower Level – 7:00 P.M.
611 E. Grand River, Howell, MI 48843

Visit the City of Howell website at www.cityofhowell.org

Monday, January 8, 2018

COUNCIL - MANAGER GOVERNMENT

Council members and other officials normally in attendance:

1. Dennis L. Perkins *City Attorney*
2. Jan Lobur *Council Member*
3. Andrew Yost, *Council Member*
4. Michael Mulvahill *Council Member*
5. Shea Charles *City Manager*
6. Nick Proctor, *Mayor*
7. Jane Cartwright *City Clerk*
8. Scott Niblock *Council Member*
9. Bob Ellis, *Council Member*
8. Steven L. Manor *Mayor Pro Tem*

SEATING:
Above list arranged according to seating order; left to right.

1. Regular Meeting Called to Order
2. Pledge of Allegiance (all stand)
3. Approve Minutes – Regular Meeting held December 18, 2017
4. Citizens' Comments (items not on agenda)
5. Reports by Council Members Serving on Commissions
6. Council Correspondence:
7. Discussion/Approval – 2018 Agreement for Collection of Summer School Property Taxes
8. Award Bids/Purchases:
   A. GPS/GIS Data Collector Unit, Leica Geosystems, $12,878.20
   B. DPS Complex, Envision Construction Services, $282,900
9. Approve payment of bills ending 01/08/2018 in the amount of $641,464.04 and payroll to cover the period ending 01/20/2018
10. City Manager's Report:
    A. Schedule Annual Goals/Objectives Retreat
11. Old Business
12. New Business
13. Adjournment

Visitors are cordially invited to attend all meetings of the Council.
If you wish to address the Council, you will be recognized by the Mayor.
Please refer to the printed guidelines on the back of the agenda.

January 8, 2018

Public Comment Guidelines

Members of the public are permitted to address a meeting of Council upon recognition by the Mayor. Each person shall begin by stating their name and address and shall be permitted to speak once on each agenda item for three (3) minutes. Agenda item 4 allows for Citizens' Comments on any non-agenda item. Where the Agenda provides Public Hearing comment, each person addressing the Council shall be limited to five (5) minutes regarding the specific agenda Public Hearing item. The Mayor may allow additional time at his/her discretion.

All remarks shall be addressed to the Council as a body, and not to any member. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council. No questions shall be asked the Council Members, except through the Mayor. Any person making personal, impertinent or slanderous remarks, or who shall become boisterous, while addressing the Council, may be requested to leave the lectern.

Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's business or over which the Council has control at anytime by direct mail or by addressing the City Clerk, and copies will be distributed to Council Members.

City of Southgate

COUNCIL RULES AND PROCEDURES

1. Meetings shall open with Pledge of Allegiance.

2. The order of roll call shall be rotated.

3. Matters referred to an ad hoc (impromptu or informal) committee shall appear on the next meeting's agenda unless otherwise specified.

4. Officials shall be referred to by their respective titles.

5. Only persons recognized by the Chair shall be noted in the minutes.

6. Individuals and organizations acknowledged by the Chair under Persons In The Audience – Scheduled and Unscheduled, may address the City Council one time only at the same meeting and will be afforded a two (2) minute time limit. The time limit may be extended at the discretion of the Chair.

7. Persons addressing the Council will maintain a proper decorum in the Council Chambers. The use of vulgar, obscene, threatening or otherwise inappropriate language or gestures shall result in a verbal warning and/or ejection from the Council Chambers at the discretion of the Chair.

8. The deadline for matters (including communications) to appear on the agenda shall be Thursday at 4:00 P.M. prior to the Council meeting. This shall also apply to Council members. Those people desiring to be placed on the agenda shall state in writing their reasons and the subject matter to be presented.

9. All communications requiring Council action shall be listed and read under "Communications A"; all others shall be listed under "Communications B" and read only if required.

10. All Council members shall receive copies of all communications with the tentative agenda. The agenda shall be available to the members on the Friday prior to the regular meeting.

11. Meetings are to be conducted according to rules of Parliamentary Procedure, as outlined in "Parliamentary Procedure at a Glance" by O. Garfield Jones.

12. All Council members are to be notified of any commission/committee meetings.

13. The City Attorney shall act as Parliamentarian and Sergeant-At-Arms to the Council.

14. <u>To reconsider a motion, the following procedure applies</u>:

a) Only a Council member who voted with the prevailing side may bring a motion to reconsider, but the motion to reconsider may be seconded by any Council member.

b) A motion to reconsider must either be made at the same meeting as the motion sought to be reconsidered, or, if the City Clerk is notified within seventy-two (72) hours after said meeting, the motion to reconsider shall be placed on the agenda for the next scheduled Council meeting.

c) If a majority of the Council votes in favor of the motion to reconsider, the motion sought to be reconsidered shall then be independently voted upon by the Council.

d) Motions shall not be reconsidered twice.

15. Changing a vote:

a) Any individual Council member may change his or her vote up to the time the vote is announced. After that he or she can make the change only with the permission of the Council. If no Council member objects, the change may be made. If an objection is raised, a motion may be made to allow the change, which motion is undebatable. A majority vote is necessary to adopt the motion and allow the change.

b) A motion to allow a Council member to change his or her vote must be made either at the same meeting as the vote sought to be changed, or, if the City Clerk is notified within seventy- two (72) hours of said meeting. The motion to allow a vote to be changed shall be placed on the agenda of the next scheduled Council meeting.

16. Emergency Expenditures:

a) Whenever an emergency expenditure is required, the matter shall first be referred to the Finance Director for pertinent information and written recommendation as to where the money

b) When other matters requiring emergency polling of the Council result, an attempt will be made to contact all members within a six-hour time frame. After the six-hour time frame, the results will be finalized. The results will be provided to Council members as soon as possible afterwards.

17. Ordinances:

a) All ordinances which amend classifications of land (rezoning) and are recommended forapproval by the Plan Commission after a public hearing, shall be forwarded to the next appropriate regular meeting of the Council for the first reading. A workshop session will be scheduled prior to the regular meeting in order to address specific Council questions.

b) All other proposed ordinances, including zoning ordinance amendments, shall be placed on a workshop agenda for consideration by Council, prior to the first reading at a regular Council meeting.

c) In the event the City Administrator deems a proposed ordinance requires immediate attention, the proposed ordinance may be placed on the next Council agenda for consideration by the Council.

d) Ordinances shall be introduced at one meeting and adopted at the following meeting. In the event the Council deems it necessary to immediately adopt an ordinance, the ordinance may be introduced and adopted at the same meeting.

e) If practical, ordinances shall be read once in their entirety. Otherwise, ordinances may be read by title only.

18. At any time during the effective period of these "Rules of Procedure", the Council may amend such rules and regulations by a majority vote.

Revised: December 3, 2003

AGENDA NOTE

New Business Item # 7

MEETING DATE: March 12, 2018

PERSON PLACING ITEM ON AGENDA:

AGENDA TOPIC: Consider Setting Tax Abatement Application Fee

EXPLANATION OF TOPIC: The Council soon will be asked to consider establishing an industrial development district which is a threshold requirement to approving an application for an industrial facilities tax exemption certificate (industrial tax abatement) under Public Act 198 of 1974 (the "Act"). The Act allows the City to charge applicants a fee to cover various costs including: publishing notice of public hearings in the newspaper, mailing certified notice of public hearing, staff review, etc. The application fee shall not exceed the actual cost incurred by the City in processing the application or 2% of the total property taxes abated under the Act for the term the abatement is in effect, whichever is less, and this is the only fee the City is allowed to charge an applicant under the Act.

The IFTEC application fee charged by other communities ranges widely. Some charge only several hundred dollars while others charge as much as $1,500, and others require an amount to be deposited in escrow and the actual costs are charged against those funds, and any unused funds returned to the applicant.

In anticipation of an application for an IFTEC, Council should establish an application fee.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Act 198 of 1974
- MEDC Summary of PA 198
- FAQ Industrial Facilities Exemption PA 198 – Michigan Department of Treasury

POSSIBLE COURSES OF ACTION: Approve/Deny/No Action/Postpone

RECOMMENDATION: Approve a tax abatement application fee consistent with Public Act 198 of 1974 and require applicants to deposit funds in an amount set by Council and that costs associated with processing the application will be paid from the deposited funds, and any unused portion will be returned to the applicant.

SUGGESTED MOTION: Motion to approve a tax abatement application fee consistent with Public Act 198 of 1974 and require applicants to deposit $_____ with the City and that costs associated with processing the application will be paid from the deposited funds, and any unused portion will be returned to the applicant, and that this application fee be included on the City's Fee Schedule.

Lisa Deaton

From: Timothy Wilhelm <twilhelm@jrsjlaw.com>
Sent: Thursday, March 8, 2018 1:39 PM
To: Lloyd Collins
Cc: Lisa Deaton; Robert Donohue
Subject: South Lyon - Tax Abatement - agenda information
Attachments: 2018-03-12 Agenda Note - tax abatement application fee.docx; 2018-03-12 Agenda Note to set PH for Superb Fab tax abatement request.docx

Lloyd

Attached are two agenda notes for setting the tax abatement application fee and setting a public hearing on superb's request to establish an IDD. Please read through these and make sure you are comfortable with the recommendations.

On the superb application, I spoke with Mary Ritchie at OCE and she indicated that OCE will review the tax abatement policy (to be revised and forwarded) and assist the Council on this matter. She indicated OCE can, if the city wants, help the City to establish a scale or scoring table for evaluating the value of investment as a criteria. She and I also discussed the past IFT approved (both to MST in 2012 and 2014). Thus, the tax abatement policy is not yet ready to present to Council. And, based on that, these issues are all somewhat inter-related, and I have no problem with having these two agenda items postponed until all 3 things can be addressed at the same time. But, I do not see any problem with proceeding on the two items either. I just want to make sure that if a public hearing is set – it is set out far enough to allow the City, and OCE, to review and adopt a tax abatement policy.

Mary OCE indicated that if a district is established, the State has been forcing communities to approve an abatement of at least 1 year. This appears to be contrary to the Act which clearly provides the City with discretion to disapprove an application even if a district is created. But, nonetheless, this is the type of concern I raised previously – creating a district and then denying the abatement application looks like bad business. So, if the Council is not interested in approving an abatement, then it should not create a district. And the converse should be made clear, if it creates the district, it should approve an abatement for at least 1 year.

I would appreciate any assistance you can provide in making sure Council is aware of this information when it considers the two agenda items on this matter.

Timothy S. Wilhelm

J|R|S|J

Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331
Phone: (248) 489-4100; Fax: (248) 489-1726
Email: twilhelm@jrsjlaw.com
Website: www.jrsjlaw.com

PLANT REHABILITATION AND INDUSTRIAL DEVELOPMENT DISTRICTS
Act 198 of 1974

AN ACT to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; 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 the state tax commission and certain officers of local governmental units; and to provide penalties.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 2001, Act 157, Imd. Eff. Nov. 6, 2001.

Popular name: Act 198

The People of the State of Michigan enact:

207.551 Meanings of certain words and phrases.

Sec. 1. The words and phrases defined in sections 2 and 3 have the meanings respectively ascribed to them for the purposes of this act.

History: 1974, Act 198, Imd. Eff. July 9, 1974.

Compiler's note: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

Popular name: Act 198

207.552 Definitions.

Sec. 2. (1) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(2) "Facility" means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

(3) "Next Michigan development corporation" means that term as defined in section 3 of the next Michigan development act, 2010 PA 275, MCL 125.2953.

(4) "Replacement facility" means 1 of the following:

(a) In the case of a replacement or restoration that occurs on the same or contiguous land as that which is replaced or restored, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.

(b) In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is or is to be constructed and includes the obsolete industrial property itself until the time as the substituted facility is completed.

(5) "New facility" means new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

(6) "Local governmental unit" means a city, village, township, or next Michigan development corporation located in this state. For purposes of this act, if a next Michigan development corporation establishes a plant rehabilitation district or an industrial development district, the next Michigan development corporation shall act as the local governmental unit in establishing and operating the plant rehabilitation district or the industrial development district.

(7) "Industrial property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, operation of a strategic response center, operation of a motorsports entertainment complex, operation of a logistical optimization center, operation of qualified commercial activity, operation of a major distribution and logistics facility, the manufacture of goods or materials, creation or synthesis of biodiesel fuel, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities. Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that

manufacture the products developed from their research activities and research development laboratories of a manufacturing company that are unrelated to the products of the company. For applications approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass. For an industrial development district created before July 1, 2010, industrial property also includes an electric generating plant that is fueled by biomass that is not owned by a unit of local government if the electric generating plant involves the reuse of a federal superfund site remediated by the United States environmental protection agency and an independent study has concluded that the electric generating plant would not have an adverse effect on wood supply of the area from which the wood supply of the electric generating plant would be derived. An electric generating plant described in the preceding sentence is presumed not to have an adverse impact on the wood supply of the area from which the wood supply of the electric generating plant would be derived if the company has a study funded by the United States department of energy and managed by the department of energy, labor, and economic growth that concludes that the electric generating plant will consume not more than 7.5% of the annual wood growth within a 60-mile radius of the electric generating plant. Industrial property also includes convention and trade centers in which construction begins not later than December 31, 2010 and is over 250,000 square feet in size or, if located in a county with a population of more than 750,000 and less than 1,100,000, is over 100,000 square feet in size or, if located in a county with a population of more than 26,000 and less than 28,000, is over 30,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 USC 341, located in a city with a population of 600,000 or more. Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of ad valorem property taxes and shall furnish proof of that liability. For purposes of a local governmental unit that is a next Michigan development corporation, industrial property includes only property used in the operation of an eligible next Michigan business, as that term is defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803. Industrial property does not include any of the following:

(a) Land.

(b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government as provided in this subsection.

(c) Inventory.

(8) "Obsolete industrial property" means industrial property the condition of which is substantially less than an economically efficient functional condition.

(9) "Economically efficient functional condition" means a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors that make the property less desirable and valuable for continued use.

(10) "Research and development laboratories" means building and structures, including the machinery, equipment, furniture, and fixtures located in the building or structure, used or to be used for research or experimental purposes that would be considered qualified research as that term is used in section 41 of the internal revenue code, 26 USC 41, except that qualified research also includes qualified research funded by grant, contract, or otherwise by another person or governmental entity.

(11) "Manufacture of goods or materials" or "processing of goods or materials" means any type of operation that would be conducted by an entity included in the classifications provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget, regardless of whether the entity conducting that operation is included in that manual.

(12) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(13) "Logistical optimization center" means a sorting and distribution center that optimizes transportation and uses just-in-time inventory management and material handling.

(14) "Commercial property" means that term as defined in section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782.

(15) "Qualified commercial activity" means commercial property that meets all of the following:

(a) At least 90% of the property, excluding the surrounding green space, is used for warehousing, distribution, or logistic purposes and is located in a county that borders another state or Canada or for a communications center.

(b) Occupies a building or structure that is greater than 100,000 square feet in size.

(16) "Motorsports entertainment complex" means a closed-course motorsports facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) Has at least 70,000 fixed seats for race patrons.

(b) Has at least 6 scheduled days of motorsports events each calendar year, at least 2 of which shall be comparable to nascar nextel cup events held in 2007 or their successor events.

(c) Serves food and beverages at the facility during sanctioned events each calendar year through concession outlets, a majority of which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets' sales.

(d) Engages in tourism promotion.

(e) Has permanent exhibitions of motorsports history, events, or vehicles.

(17) "Major distribution and logistics facility" means a proposed distribution center that meets all of the following:

(a) Contains at least 250,000 square feet.

(b) Has or will have an assessed value of $5,000,000.00 or more for the real property.

(c) Is located within 35 miles of the border of this state.

(d) Has as its purpose the distribution of inventory and materials to facilities owned by the taxpayer whose primary business is the retail sale of sporting goods and related inventory.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975;—Am. 1976, Act 224, Imd. Eff. July 30, 1976;—Am. 1978, Act 37, Imd. Eff. Feb. 24, 1978;—Am. 1981, Act 211, Imd. Eff. Dec. 30, 1981;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1986, Act 66, Imd. Eff. Apr. 1, 1986;—Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999;—Am. 2000, Act 247, Imd. Eff. June 29, 2000;—Am. 2002, Act 280, Imd. Eff. May 9, 2002;—Am. 2003, Act 5, Imd. Eff. Apr. 24, 2003;—Am. 2005, Act 118, Imd. Eff. Sept. 22, 2005;—Am. 2005, Act 267, Imd. Eff. Dec. 16, 2005;—Am. 2007, Act 12, Imd. Eff. May 29, 2007;—Am. 2007, Act 146, Imd. Eff. Dec. 10, 2007;—Am. 2008, Act 170, Imd. Eff. July 2, 2008;—Am. 2008, Act 457, Imd. Eff. Jan. 9, 2009;—Am. 2008, Act 581, Imd. Eff. Jan. 16, 2009;—Am. 2009, Act 209, Imd. Eff. Jan. 4, 2010;—Am. 2010, Act 273, Imd. Eff. Dec. 15, 2010;—Am. 2011, Act 154, Imd. Eff. Sept. 27, 2011.

Compiler's note: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

Popular name: Act 198

207.553 Additional definitions.

Sec. 3. (1) "Plant rehabilitation district" means an area of a local governmental unit established as provided in section 4.

(2) "Industrial development district" means an area established by a local governmental unit as provided in section 4.

(3) "Industrial facility tax" means the specific tax levied under this act.

(4) "Industrial facilities exemption certificate" means a certificate issued pursuant to sections 5, 6, and 7.

(5) "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.

(6) "Restoration" means changes to obsolete industrial property other than replacement as may be required to restore the property, together with all appurtenances to the property, to an economically efficient functional condition. Restoration does not include delayed maintenance or the substitution or addition of tangible personal property without major renovation of the industrial property. A program involving expenditures for changes to the industrial property improvements aggregating less than 10% of the true cash value at commencement of the restoration of the industrial property improvements is delayed maintenance. Restoration includes major renovation including but not necessarily limited to the improvement of floor loads, correction of deficient or excessive height, new or improved building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, improvements or modifications of machinery and equipment to improve efficiency, decrease operating costs, or to increase productive capacity, and other physical changes as may be required to restore the industrial property to an economically efficient functional condition, and shall include land and building improvements and other tangible personal property incident to the improvements.

(7) "State equalized valuation" means the valuation determined under 1911 PA 44, MCL 209.1 to 209.8.

(8) "Speculative building" means a building that meets 1 of the following criteria and the machinery, equipment, furniture, and fixtures located in the building:

(a) A new building that meets all of the following:

(*i*) 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.

(*ii*) The building is constructed for the purpose of providing a manufacturing facility before the

identification of a specific user of that building.

(*iii*) The building does not qualify as a replacement facility.

(b) The building is an existing building on an improved parcel of industrial property used for the manufacturing of goods or materials or processing of goods or materials. Not more than 1 building shall be awarded an industrial facilities exemption certificate under this subdivision. A building that complies with this subdivision shall be presumed to have been constructed within 9 years of the filing of the application for an industrial facilities exemption certificate and shall comply with the following:

(*i*) Has been unoccupied for at least 4 years immediately preceding the date the certificate is issued.

(*ii*) Is in an industrial development district created before January 1, 2011.

(*iii*) Is located in a county with a population of more than 22,000 and less than 24,500 containing a city with a population of more than 3,600 according to the last decennial census.

(9) "Development organization" means any economic development corporation, downtown development authority, tax increment financing authority, or an organization under the supervision of and created for economic development purposes by a local governmental unit.

(10) "Manufacturing facility" means buildings and structures, including the machinery, equipment, furniture, and fixtures located therein, the primary purpose of which is 1 or more of the following:

(a) The manufacture of goods or materials or the processing of goods and materials by physical or chemical change.

(b) The provision of research and development laboratories of companies whether or not the company manufactures the products developed from their research activities.

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

(12) "Strategic response center" means a facility that provides catastrophe response solutions through the development and staffing of a national response center for which a plant rehabilitation district or an industrial development district was created before December 31, 2007.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1975, Act 247, Imd. Eff. Sept. 4, 1975;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996;—Am. 2007, Act 13, Imd. Eff. May 29, 2007;—Am. 2010, Act 122, Imd. Eff. July 19, 2010.

Compiler's note: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

Popular name: Act 198

207.554 Plant rehabilitation district or industrial development district; establishment; number of parcels; filing; notice; hearing; finding and determination; district established by township; industrial property as part of industrial development district or plant rehabilitation district also part of tax increment district; termination; notice.

Sec. 4. (1) A local governmental unit, by resolution of its legislative body, may establish plant rehabilitation districts and industrial development districts that consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land.

(2) The legislative body of a local governmental unit may establish a plant rehabilitation district or an industrial development district on its own initiative or upon a written request filed by the owner or owners of 75% of the state equalized value of the industrial property located within a proposed plant rehabilitation district or industrial development district. This request shall be filed with the clerk of the local governmental unit.

(3) Except as provided in section 9(2)(h), after December 31, 1983, a request for the establishment of a proposed plant rehabilitation district or industrial development district shall be filed only in connection with a proposed replacement facility or new facility, the construction, acquisition, alteration, or installation of or for which has not commenced at the time of the filing of the request. The legislative body of a local governmental unit shall not establish a plant rehabilitation district or an industrial development district pursuant to subsection (2) if it finds that the request for the district was filed after the commencement of construction, alteration, or installation of, or of an acquisition related to, the proposed replacement facility or new facility. This subsection shall not apply to a speculative building.

(4) Before adopting a resolution establishing a plant rehabilitation district or industrial development district, the legislative body shall give written notice by certified mail to the owners of all real property within the proposed plant rehabilitation district or industrial development district and shall hold a public hearing on the establishment of the plant rehabilitation district or industrial development district at which those owners and other residents or taxpayers of the local governmental unit shall have a right to appear and be heard.

(5) The legislative body of the local governmental unit, in its resolution establishing a plant rehabilitation

district, shall set forth a finding and determination that property comprising not less than 50% of the state equalized valuation of the industrial property within the district is obsolete.

(6) A plant rehabilitation district or industrial development district established by a township shall be only within the unincorporated territory of the township and shall not be within a village.

(7) Industrial property that is part of an industrial development district or a plant rehabilitation district may also be part of a tax increment district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(8) A local governmental unit, by resolution of its legislative body, may terminate a plant rehabilitation district or an industrial development district, if there are no industrial facilities exemption certificates in effect in the plant rehabilitation district or the industrial development district on the date of the resolution to terminate.

(9) Before acting on a proposed resolution terminating a plant rehabilitation district or an industrial development district, the local governmental unit shall give at least 14 days' written notice by certified mail to the owners of all real property within the plant rehabilitation district or industrial development district as determined by the tax records in the office of the assessor or the treasurer of the local tax collecting unit in which the property is located and shall hold a public hearing on the termination of the plant rehabilitation district or industrial development district at which those owners and other residents or taxpayers of the local governmental unit, or others, shall have a right to appear and be heard.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1980, Act 449, Imd. Eff. Jan. 15, 1981;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 334, Eff. Apr. 1, 1994;—Am. 1994, Act 266, Eff. Imd. July 6, 1994;—Am. 1995, Act 218, Imd. Eff. Dec. 1, 1995;—Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999;—Am. 2004, Act 437, Imd. Eff. Dec. 21, 2004.

Compiler's note: For transfer of powers and duties of department of commerce under Act 198 of 1974 to the chief executive officer of the Michigan jobs commission, see E.R.O. No. 1994-8, compiled at MCL 408.47 of the Michigan Compiled Laws.

Popular name: Act 198

207.555 Application for industrial exemption certificate; filing; contents; notice to assessing and taxing units; hearing; application fee.

Sec. 5. (1) After the establishment of a district, the owner or lessee of a facility may file an application for an industrial facilities exemption certificate with the clerk of the local governmental unit that established the plant rehabilitation district or industrial development district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the facility and a general description of the proposed use of the facility, the general nature and extent of the restoration, replacement, or construction to be undertaken, a descriptive list of the equipment that will be a part of the facility, a time schedule for undertaking and completing the restoration, replacement, or construction of the facility, and information relating to the requirements in section 9.

(2) Upon receipt of an application for an industrial facilities exemption certificate, the clerk of the local governmental unit shall notify in writing the assessor of the assessing unit in which the facility is located or to be located, and the legislative body of each taxing unit that levies ad valorem property taxes in the local governmental unit in which the facility is located or to be located. Before acting upon the application, the legislative body of the local governmental unit shall afford the applicant, the assessor, and a representative of the affected taxing units an opportunity for a hearing.

(3) The local governmental unit may charge the applicant an application fee to process an application for an industrial facilities exemption certificate. The application fee shall not exceed the actual cost incurred by the local governmental unit in processing the application or 2% of the total property taxes abated under this act for the term that the industrial facilities exemption certificate is in effect, whichever is less. A local governmental unit shall not charge an applicant any other fee under this act.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1976, Act 224, Imd. Eff. July 30, 1976;—Am. 1996, Act 323, Imd. Eff. June 26, 1996.

Popular name: Act 198

207.556 Application for industrial facilities exemption certificate; approval or disapproval; appeal.

Sec. 6. The legislative body of the local governmental unit, not more than 60 days after receipt by its clerk of the application, 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 reasons shall be set forth in writing in the resolution. If approved, the clerk shall forward the application to the commission within 60 days of approval or before October 31 of that year, whichever is first, or as otherwise provided in section 7 in order to receive the industrial facilities exemption certificate effective for the

following year. If disapproved, the clerk shall return the application to the applicant. The applicant may appeal the disapproval to the commission within 10 days after the date of the disapproval.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1996, Act 323, Imd. Eff. June 26, 1996;—Am. 2013, Act 85, Imd. Eff. June 28, 2013.

Popular name: Act 198

207.557 Determination by commission; issuance of industrial facilities exemption certificate; notice of application; concurrence; effective date of certificate; mailing and filing of certificate; notice of refusal to issue certificate; resolutions approving or amending industrial facilities exemption certificate; completed application; error or mistake; failure to forward application, amended or transfer application, or request to revoke certificate; duties of commission.

Sec. 7. (1) Within 60 days after receipt of an approved application or an appeal of a disapproved application that was submitted to the commission before October 31 of that year, the commission shall determine whether the facility is a speculative building or designed and acquired primarily for the purpose of restoration or replacement of obsolete industrial property or the construction of new industrial property, and whether the facility otherwise complies with section 9 and with the other provisions of this act. If the commission so finds, it shall issue an industrial facilities exemption certificate. Before issuing a certificate the commission shall notify the state treasurer of the application and shall obtain the written concurrence of the department of licensing and regulatory affairs that the application complies with the requirements in section 9. Except as otherwise provided in this section and section 7a, the effective date of the certificate for a replacement facility or new facility is the immediately succeeding December 31 following the date the certificate is issued. For a speculative building or a portion of a speculative building, except as otherwise provided in section 7a, the effective date of the certificate is the immediately succeeding December 31 following the date the speculative building, or the portion of a speculative building, is used as a manufacturing facility.

(2) The commission shall send an industrial facilities exemption certificate, when issued, by mail to the applicant, and a certified copy by mail to the assessor of the assessing unit in which the facility is located or to be located, and that copy shall be filed in his or her office. Notice of the commission's refusal to issue a certificate shall be sent by mail to the same persons.

(3) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997.

(4) Notwithstanding any other provision of this act, if pursuant to section 16a a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 14, 2003 for a certificate that expired in December 2002, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2002 and ends December 30, 2009.

(5) Notwithstanding any other provision of this act, if on or before February 10, 2007 a local governmental unit passed a resolution approving an amendment of an industrial facilities exemption certificate for a replacement facility and that certificate was revoked by the commission effective December 30, 2005 with the order of revocation issued by the commission on April 10, 2006, notwithstanding the revocation, the commission shall retroactively amend the certificate and give full effect to the amended certificate, which shall include the additional personal property expenditures described in the resolution amending the certificate, for the period of time beginning when the certificate was originally approved until the certificate was revoked.

(6) Notwithstanding any other provision of this act, if on July 23, 2012, a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility, but the application was not made complete until 2013, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 31, 2012 and ends December 31, 2024.

(7) Notwithstanding any other provision of this act, if on February 21, 2012, a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility, but the application was not made complete until 2013, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 31, 2012.

(8) If the commission receives an application under this act for an industrial facilities exemption certificate for a new facility or a replacement facility and the application is made complete before October 31 following

the year in which the application is received by the commission, the commission may issue for that property an industrial facilities exemption certificate that has an effective date of December 31 of the year in which the application was received by the commission.

(9) If an error or mistake in an application for an industrial facilities exemption certificate is discovered after the local governmental unit has passed a resolution approving the application or after the commission has issued a certificate for the application, an applicant may submit an amended application in the same manner as an original application under this act that corrects the error or mistake. The legislative body of the local governmental unit and the commission may approve or deny the amended application. If the commission previously issued a certificate for the original application and approves an amended application under this subsection, the commission shall issue an amended certificate for the amended application with the same effective date as the original certificate.

(10) If the clerk of the qualified local governmental unit failed to forward an application, an amended or transfer application, or a request to revoke a certificate that was approved by the legislative body of the qualified local governmental unit before October 31 of that year to the commission before October 31 but filed the application, the amended or transfer application, or the request to revoke a certificate before October 31 of the immediately succeeding year and the commission approves the application, the amended or transfer application, or the request to revoke a certificate, notwithstanding any other provision of this act, the certificate shall be considered to be issued, transferred, amended, or revoked on December 31 of the year in which the local governmental unit approved the application, the amended or transfer application, or the request to revoke the certificate.

(11) Beginning October 1, 2013, the commission shall do all of the following for each industrial facilities exemption certificate approved or disapproved by the commission under subsection (8), (9), or (10):

(a) Notify the office of the member of the house of representatives of this state and the office of the senator of this state, who represent the geographic area in which the property covered by the application for a certificate is located, that an application for a certificate has been approved or disapproved under subsection (8), (9), or (10).

(b) Publish on its website a copy of the certificate if approved, or a copy of the denial notice if disapproved, under subsection (8), (9), or (10) and whatever additional information the commission considers appropriate regarding the application.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1996, Act 323, Imd. Eff. June 26, 1996;—Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997;—Am. 2005, Act 267, Imd. Eff. Dec. 16, 2005;—Am. 2006, Act 483, Imd. Eff. Dec. 28, 2006;—Am. 2008, Act 457, Imd. Eff. Jan. 9, 2009;—Am. 2013, Act 85, Imd. Eff. June 28, 2013;—Am. 2014, Act 514, Imd. Eff. Jan. 14, 2015.

Popular name: Act 198

207.557a Cost of facility exceeding certain amount of state equalized value.

Sec. 7a. If, after reviewing the application described in section 7, the commission determines that the cost of the facility exceeds $150,000,000.00 of state equalized value, then all of the following apply:

(a) The replacement, restoration, or construction of the facility shall be completed within 6 years of the effective date of the initial industrial facilities exemption certificate or a greater time as authorized by the commission for good cause.

(b) The commission shall provide not more than 3 separate industrial facilities exemption certificates for the facility. The initial industrial facilities exemption certificate shall be effective for not more than 14 years. The second industrial facilities exemption certificate shall be effective 2 years after the initial industrial facilities exemption certificate becomes effective and shall continue to be effective for not more than 14 years. The third industrial facilities exemption certificate shall be effective 4 years after the initial industrial facilities exemption certificate becomes effective and shall continue to be effective for not more than 14 years. The commission may modify each certificate during the replacement, restoration, or construction of the facility.

(c) For each industrial facilities exemption certificate, the commission shall determine the portion of the facility to be completed. During the first 2 years of the industrial facilities exemption certificate period, the state equalized valuation of that portion of the facility shall be used to calculate the industrial facilities tax as provided in section 14. Upon the expiration of each industrial facilities exemption certificate or its revocation under section 15, that portion of the facility is subject to the general ad valorem property tax.

(d) Notwithstanding subdivision (b), an industrial facilities exemption certificate for a facility described in this section shall expire not more than 12 years from the completion of the facility.

History: Add. 1996, Act 513, Imd. Eff. Jan. 13, 1997.

Popular name: Act 198

207.558 Exemption of facility and certain persons from ad valorem taxes.

Sec. 8. A facility or that portion of a facility described in section 7a, for which an industrial facilities exemption certificate is in effect, but not the land on which the facility is located or to be located or inventory of the facility, for the period on and after the effective date of the certificate and continuing so long as the industrial facilities exemption certificate is in force, is exempt from ad valorem real and personal property taxes and the lessee, occupant, user, or person in possession of that facility for the same period is exempt from ad valorem taxes imposed under Act No. 189 of the Public Acts of 1953, being sections 211.181 and 211.182 of the Michigan Compiled Laws.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1993, Act 334, Eff. Apr. 1, 1994;—Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997.

Popular name: Act 198

207.559 Finding and determination in resolution approving application for certificate; valuation requiring separate finding and statement; compliance with certain requirements as condition to approval of application and granting of certificate; demolition, sale, or transfer of obsolete industrial property; certificate applicable to speculative building; procedural information; replacement facility; property owned or operated by casino; "casino" defined; issuance of certificates.

Sec. 9. (1) The legislative body of the local governmental unit, in its resolution approving an application, shall set forth a finding and determination that the granting of the industrial facilities exemption certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the local governmental unit in which the facility is located or to be located. If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force, exceeds 5% of the state equalized valuation of the local governmental unit, the commission, with the approval of the state treasurer, shall make a separate finding and shall include a statement in the order approving the industrial facilities exemption certificate that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) Except for an application for a speculative building, which is governed by subsection (4), the legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the restoration, replacement, or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate. If the application is not filed within the 12-month period, the application may be filed within the succeeding 12-month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have expired if the application had been timely filed. This subdivision does not apply for applications filed with the local governmental unit after December 31, 1983.

(b) For applications made after December 31, 1983, the proposed facility shall be located within a plant rehabilitation district or industrial development district that was duly established in a local governmental unit eligible under this act to establish a district and that was established upon a request filed or by the local governmental unit's own initiative taken before the commencement of the restoration, replacement, or construction of the facility.

(c) For applications made after December 31, 1983, the commencement of the restoration, replacement, or construction of the facility occurred not earlier than 6 months before the filing of the application for the industrial facilities exemption certificate.

(d) The application relates to a construction, restoration, or replacement program that when completed constitutes a new or replacement facility within the meaning of this act and that shall be situated within a plant rehabilitation district or industrial development district duly established in a local governmental unit eligible under this act to establish the district.

(e) Completion of the facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to create employment, retain employment, prevent a loss of employment, or produce energy in the community in which the facility is situated.

(f) Completion of the facility does not constitute merely the addition of machinery and equipment for the purpose of increasing productive capacity but rather is primarily for the purpose and will primarily have the

effect of restoration, replacement, or updating the technology of obsolete industrial property. An increase in productive capacity, even though significant, is not an impediment to the issuance of an industrial facilities exemption certificate if other criteria in this section and act are met. This subdivision does not apply to a new facility.

(g) The provisions of subdivision (c) do not apply to a new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in April of 1992 if the application was approved by the local governing body and was denied by the state tax commission in April of 1993.

(h) The provisions of subdivisions (b) and (c) and section 4(3) do not apply to 1 or more of the following:

(*i*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1995 for construction that was commenced in July 1992 in a district that was established by the legislative body of the local governmental unit in July 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(*ii*) A facility located in an industrial development district that was established in January 1994 and was owned by a person who filed an application for an industrial facilities exemption certificate in February 1994 if the personal property and real property portions of the application were approved by the legislative body of the local governmental unit and the personal property portion of the application was approved by the state tax commission in December 1994 and the real property portion of the application was denied by the state tax commission in December 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(*iii*) A facility located in an industrial development district that was established in December 1995 and was owned by a person who filed an application for an industrial facilities exemptions certificate in November or December 1995 for construction that was commenced in September 1995.

(*iv*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16. The facility described in this subparagraph shall be taxed under this act as if it was granted an industrial facilities exemption certificate in October 2001, and a corrected tax bill shall be issued by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If granting the industrial facilities exemption certificate under this subparagraph results in an overpayment of the tax, a rebate, including any interest and penalties paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(*v*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in December 2005 for construction that was commenced in September 2005 in a district that was established by the legislative body of the local governmental unit in December 2005. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16.

(*vi*) A facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for real property in July 2006 if the application was approved by the legislative body of the local governmental unit in September 2006 but not submitted to the state tax commission until September 2006.

(*vii*) A new facility located in an existing industrial development district owned by a person who filed or amended an application for an industrial facilities exemption certificate for personal property in June 2006 if the application was approved by the legislative body of the local governmental unit in August 2006 but not submitted to the state tax commission until 2007. The effective date of the certificate shall be December 31, 2006.

(*viii*) A new facility located in an industrial development district that was established by the legislative body of the local governmental unit in September of 2007 for construction that was commenced in March 2007 and for which an application for an industrial facilities exemption certificate was filed in September of 2007.

(*ix*) A facility located in an industrial development district that was established by the legislative body of the local governmental unit in August 2007 and was owned by a person who filed an application for an industrial facilities exemption certificate in June 2007 for equipment that was purchased in January 2007.

(*x*) A facility located in an industrial development district that otherwise meets the criteria of this act that

has received written approval from the chairperson of the Michigan economic growth authority.

(*xi*) A new facility located in an industrial development district that was established by the legislative body of the local governmental unit in August of 2008 for construction that was commenced in December 2005 and certificate of occupancy issued in September 2006 for which an application for an industrial facilities exemption certificate was filed in August of 2008.

(*xii*) A facility located in an industrial development district owned by a person who filed an application for a certificate for real and personal property in April 2005 if the application was approved by the legislative body of the local governmental unit in July 2005 for construction that was commenced in July 2004.

(*xiii*) A facility located in an industrial development district that was established by the legislative body of the local governmental unit in December 2007 for construction that was commenced in September 2007 and a certificate of occupancy issued in September 2008 for which an application for an industrial facilities exemption certificate was approved in May of 2008.

(i) The provisions of subdivision (c) do not apply to any of the following:

(*i*) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1993 if the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the state tax commission in December 1993.

(*ii*) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in September 1993 if the personal property portion of the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the legislative body of the local governmental unit in October 1993 and subsequently approved by the legislative body of the local governmental unit in September 1994.

(*iii*) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in August 1993 if the application was approved by the local governmental unit in September 1993 and the application was denied by the state tax commission in December 1993.

(*iv*) A facility located in an existing industrial development district occupied by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in October of 1995 for construction that was commenced in November or December of 1994.

(*v*) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in July of 1995 and the personal property portion of the application was approved by the state tax commission in November of 1995.

(j) If the facility is locating in a plant rehabilitation district or an industrial development district from another location in this state, the owner of the facility is not delinquent in any of the taxes described in section 10(1)(a) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially delinquent in any of the taxes described in and as provided under section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690.

(3) If the replacement facility when completed will not be located on the same premises or contiguous premises as the obsolete industrial property, then the applicant shall make provision for the obsolete industrial property by demolition, sale, or transfer to another person with the effect that the obsolete industrial property shall within a reasonable time again be subject to assessment and taxation under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or be used in a manner consistent with the general purposes of this act, subject to approval of the commission.

(4) The legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate that applies to a speculative building unless the speculative building is or is to be located in a plant rehabilitation district or industrial development district duly established by a local governmental unit eligible under this act to establish a district; the speculative building was constructed less than 9 years before the filing of the application for the industrial facilities exemption certificate; the speculative building has not been occupied since completion of construction; and the speculative building otherwise qualifies under subsection (2)(e) for an industrial facilities exemption certificate. An industrial facilities exemption certificate granted under this subsection shall expire as provided in section 16(3).

(5) Not later than September 1, 1989, the commission shall provide to all local assessing units the name, address, and telephone number of the person on the commission staff responsible for providing procedural information concerning this act. After October 1, 1989, a local unit of government shall notify each prospective applicant of this information in writing.

(6) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997. The facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1987.

(7) Notwithstanding any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on July 8, 1991 but rescinded that resolution and passed a resolution approving an industrial facilities exemption certificate for that same facility as a replacement facility on October 21, 1996, the commission shall issue for that property an industrial facilities exemption certificate that begins December 30, 1991 and ends December 2003. The replacement facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1991.

(8) Property owned or operated by a casino is not industrial property or otherwise eligible for an abatement or reduction of ad valorem property taxes under this act. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, convention and trade center, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(9) Notwithstanding section 16a and any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 28, 1996 for a certificate that expired in December 2003 and the local governmental unit passes a resolution approving the extension of the certificate after December 2003 and before March 1, 2006, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2005 and ends December 30, 2010 as long as the property continues to qualify under this act.

(10) Notwithstanding any other provision of this act, if the commission issued an industrial facilities exemption certificate for a new facility on December 8, 1998 but revoked that industrial facilities exemption certificate for that same facility effective December 30, 2006 and that new facility is purchased by a buyer on or before November 1, 2007, the commission shall issue for that property an industrial facilities exemption certificate that begins December 31, 1998 and ends December 30, 2010 and shall transfer that industrial facilities exemption certificate to the buyer. The new facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate effective on December 31, 1998.

(11) Notwithstanding any other provision of this act, if the commission issued industrial facilities exemption certificates for new facilities on October 30, 2002, September 9, 2003, and November 30, 2005 but revoked the industrial facilities exemption certificates for the same facilities effective December 30, 2007 and the new facilities continue to qualify under this act, the commission shall issue for the properties industrial facilities exemption certificates which end respectively on December 30, 2008, December 30, 2009, and December 30, 2011.

(12) Notwithstanding any other provision of this act, if in August 2008 a local governmental unit passed a resolution approving an exemption certificate for 12 years for real and personal property but the commission did not receive the application until 2008, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 31, 2006 and ends December 30, 2018. The facility described in this subsection shall be taxed under this act as if it had been granted an industrial facilities exemption certificate on December 31, 2006.

(13) Notwithstanding any other provision of this act, if in September 2011 or October 2011 a local governmental unit passed a resolution approving an exemption certificate for 12 years for personal property but the commission did not receive the application until November 2011 and the commission approved the applications in May 2012, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 31, 2011 and ends December 30, 2023. The facility described in this subsection shall be taxed under this act as if it had been granted an industrial facilities exemption certificate on December 31, 2011.

(14) Notwithstanding any other provision of this act, if on August 23, 2011 a local governmental unit passed a resolution approving an exemption certificate for 12 years for real property and the emergency manager subsequently appointed for that local community issued an order approving the exemption certificate on November 8, 2013 but the commission did not receive the application until November 27, 2013, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 31, 2011 and ends December 30, 2023. The real property component of the facility described in this subsection shall be taxed under this act as if it had been granted an industrial facilities exemption certificate on December 31, 2011.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975;—Am. 1976, Act 224, Imd. Eff. July 30, 1976;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1985, Act 33, Imd. Eff. June 13, 1985;—Am. 1989, Act 119, Imd. Eff. June 28, 1989;—Am. 1990, Act 338, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 201, Imd. Eff. Jan. 3, 1992;—Am. 1994, Act 76, Imd. Eff. Apr. 11, 1994;—Am. 1994, Act 266, Imd. Eff. July 6, 1994;—Am. 1994, Act 379, Imd. Eff. Dec. 27, 1994;—Am. 1995, Act 218, Imd. Eff. Dec. 1, 1995;—Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996;—Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997;—Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999;—Am. 2005, Act 251, Imd. Eff. Dec. 1, 2005;—Am. 2006, Act 22, Imd. Eff. Feb. 14, 2006;—Am. 2006, Act 436, Imd. Eff. Oct. 5, 2006;—Am. 2007, Act 146, Imd. Eff. Dec. 10, 2007;—Am. 2008, Act 170, Imd. Eff. July 2, 2008;—Am. 2008, Act 515, Imd. Eff. Jan. 13, 2009;—Am. 2008, Act 516, Imd. Eff. Jan. 13, 2009;—Am. 2012, Act 490, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 513, Imd. Eff. Jan. 14, 2015.

Compiler's note: Section 2 of Act 119 of 1989 provides:
"Section 2. This amendatory act shall take effect beginning with taxes levied under this act in 1989."

Popular name: Act 198

207.560 Annual determination of value of facility.

Sec. 10. (1) The assessor of each city or township in which there is a speculative building, new facility, or replacement facility with respect to which 1 or more industrial facilities exemption certificates have been issued and are in force shall determine annually as of December 31 the value and taxable value of each facility separately, both for real and personal property, having the benefit of a certificate.

(2) The assessor, 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 and the commission the value of the property to which the application pertains and other information as may be necessary to permit the local legislative body and the commission to make the determinations required by section 9(1).

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1975, Act 302, Imd. Eff. Dec. 19, 1975;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996.

Popular name: Act 198

207.561 Industrial facility tax; payment; disbursements; allocation; receipt or retention of tax payment by local or intermediate school district; disposition of amount disbursed to local school district; facility located in renaissance zone; building or facility owned or operated by qualified start-up business; "qualified start-up business" defined.

Sec. 11. (1) Except as provided in subsections (6) and (7), there is levied upon every owner of a speculative building, a new facility, or a replacement facility to which an industrial facilities exemption certificate is issued a specific tax to be known as the industrial facility tax and an administrative fee calculated in the same manner and at the same rate that the local tax collecting unit imposes on ad valorem taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(2) The industrial facility tax and administrative fee are to be paid annually, at the same times, in the same installments, and to the same officer or officers as taxes and administrative fees, if any, 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 industrial facility tax payments received each year to and among the state, cities, townships, villages, 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. To determine the proportion for the disbursement of taxes under this subsection and for attribution of taxes under subsection (5) for taxes collected under industrial facilities exemption certificates issued before January 1, 1994, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(3) Except as provided by subsections (4) and (5), for an intermediate school district receiving state aid under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount that would otherwise be disbursed to or retained by the intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of the state school aid, shall be paid instead 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. If the sum of any commercial facilities taxes prescribed by the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, and the industrial facility taxes paid to the state treasury to the credit of the state school aid fund that would otherwise be disbursed to the local or intermediate school district, under section 12 of the commercial redevelopment act, 1978 PA 255, MCL 207.662, and this section, exceeds the amount received by the local or intermediate school district under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656,

388.1662, and 388.1681, the department of treasury shall allocate to each eligible local or intermediate school district an amount equal to the difference between the sum of the commercial facilities taxes and the industrial facility taxes paid to the state treasury to the credit of the state school aid fund and the amount the local or intermediate school district received under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681. This subsection does not apply to taxes levied for either of the following:

(a) Mills allocated to an intermediate school district for operating purposes as provided for under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(b) An intermediate school district that is not receiving state aid under section 56 or 62 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656 and 388.1662.

(4) For industrial facilities taxes levied before 1994, a local or intermediate school district shall receive or retain its industrial facility tax payment that is levied in any year and becomes a lien before December 1 of the year if the district files a statement with the state treasurer not later than June 30 of the year certifying that the district does not expect to receive state school aid payments under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, in the state fiscal year commencing in the year this statement is filed and if the district did not receive state school aid payments under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, for the state fiscal year concluding in the year the statement required by this subsection is filed. However, if a local or intermediate school district receives or retains its summer industrial facility tax payment under this subsection and becomes entitled to receive state school aid payments under section 56, 62, or 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, in the state fiscal year commencing in the year in which it filed the statement required by this subsection, the district immediately shall pay to the state treasury to the credit of the state school aid fund an amount of the summer industrial facility tax payments that would have been paid to the state treasury to the credit of the state school aid fund under subsection (3) had not this subsection allowed the district to receive or retain the summer industrial facility tax payment.

(5) For industrial facilities taxes levied after 1993, the amount to be disbursed to a local school district, except for that amount of tax attributable to mills levied under section 1211(2) or 1211c of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1211c, and mills that are not included as mills levied for school operating purposes under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, shall be paid 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.

(6) A speculative building, a new facility, or a replacement 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 industrial facility 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 industrial facility 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 industrial facility tax calculated under this subsection shall be disbursed proportionately to the local 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.

(7) Upon application for an exemption under this subsection by a qualified start-up business, the governing body of a local tax collecting unit may adopt a resolution to exempt a speculative building, a new facility, or a replacement facility of a qualified start-up business from the collection of the industrial facility tax levied under this act in the same manner and under the same terms and conditions as provided for the exemption in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit and the legislative body of each taxing unit that levies ad valorem property taxes in the local tax collecting unit. Before acting on the resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution authorizing the exemption is adopted in the same manner as provided in section 7hh of the general property tax act, 1893 PA 206, MCL 211.7hh, a speculative building, a new facility, or a replacement facility owned or operated by a qualified start-up business is exempt from the industrial facility tax levied under this act, except for that portion of the industrial facility 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, for the year in which the resolution is adopted. A qualified start-up business is not eligible for an exemption under this subsection for more than 5 years. A qualified start-up business may receive the exemption under this subsection in nonconsecutive years. The industrial facility tax calculated under this subsection shall 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. As used in this subsection, "qualified start-up business" means that term as defined in section 31a of the single

business tax act, 1975 PA 228, MCL 208.31a, or in section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1975, Act 247, Imd. Eff. Sept. 4, 1975;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1983, Act 139, Imd. Eff. July 18, 1983;—Am. 1984, Act 122, Imd. Eff. June 1, 1984;—Am. 1993, Act 334, Eff. Apr. 1, 1994;—Am. 1994, Act 266, Imd. Eff. July 6, 1994;—Am. 1994, Act 379, Imd. Eff. Dec. 27, 1994;—Am. 1995, Act 132, Imd. Eff. July 10, 1995;—Am. 1996, Act 446, Imd. Eff. Dec. 19, 1996;—Am. 2001, Act 157, Imd. Eff. Nov. 6, 2001;—Am. 2004, Act 323, Imd. Eff. Aug. 27, 2004;—Am. 2007, Act 195, Imd. Eff. Dec. 21, 2007.

Compiler's note: Act 165 of 1989, purporting to amend MCL 207.561 and 207.564, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

Popular name: Act 198

207.561a Facility subject to industrial facilities exemption certificate; exemption for eligible manufacturing personal property; extension; filing combined document; "eligible manufacturing personal property" and "eligible personal property" defined.

Sec. 11a. (1) If a facility was subject to an industrial facilities exemption certificate on or after December 31, 2012, notwithstanding any other provision of this act to the contrary, that portion of the facility that is eligible manufacturing personal property shall remain subject to the industrial facilities tax and shall remain exempt from ad valorem property taxes as provided in section 8 until that eligible manufacturing personal property would otherwise be exempt from the collection of taxes under section 9m, 9n, or 9o of the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and 211.9o. The holder of an industrial facilities exemption certificate that has been extended under this subsection shall indicate that portion of a facility that is eligible manufacturing personal property by annually filing the combined document required under section 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n, with the assessor of the township or city in which the eligible manufacturing personal property is located by the date required under section 9m or 9n of the general property tax act, 1893 PA 206, MCL 211.9m and 211.9n.

(2) As used in this section:

(a) "Eligible manufacturing personal property" means that term as defined in section 9m of the general property tax act, 1893 PA 206, MCL 211.9m.

(b) "Eligible personal property" means that term as defined in section 3(e)(*iii*) of the state essential services assessment act, 2014 PA 92, MCL 211.1053.

History: Add. 2012, Act 397, Eff. Mar. 28, 2013;—Am. 2015, Act 123, Imd. Eff. July 10, 2015;—Am. 2016, Act 110, Imd. Eff. May 6, 2016;—Am. 2017, Act 264, Eff. Dec. 31, 2017.

Compiler's note: Enacting section 1 of Act 397 of 2012 provides:

"Enacting section 1. Section 11a of 1974 PA 198, MCL 207.561a, as added by this amendatory act, is repealed if House Bill No. 6026 of the 96th Legislature is not approved by a majority of the qualified electors of this state voting on the question at an election to be held on the August regular election date in 2014."

Compiler's note: HB 6026, referred to in enacting section 1, became 2012 PA 408. The act did not appear on the August 5, 2014 primary ballot.

207.562 Failure to pay tax applicable to personal property; seizure and sale of personal property; civil action; jeopardy assessment; disbursement.

Sec. 12. (1) If the industrial facility tax applicable to personal property is not paid within the time permitted by law for payment without penalty of taxes imposed under Act No. 206 of the Public Acts of 1893, as amended, the officer to whom the industrial facility tax is first payable may in his own name or in the name of the city, village, township, or county of which he is an officer, seize and sell personal property within this state of the owner who has so neglected or refused to pay the industrial facility tax applicable to personal property, to an amount sufficient to pay the tax, the expenses of sale, and interest on the tax at the rate of 9% per annum from the date the tax was first payable; or the officer may in his own name or in the name of the city, village, township, or county of which he is an officer, institute a civil action against the owner in the circuit court of the county in which the facility is located or in the circuit court of the county in which the owner resides or has his or its principal place of business, and in that civil action recover the amount of the tax and interest thereon at the rate of 9% per annum from the date the tax was first payable.

(2) The officer may proceed to make a jeopardy assessment, in the manner and under the circumstances provided by Act No. 55 of the Public Acts of 1956, being sections 211.691 to 211.698 of the Michigan Compiled Laws, as an additional means of collecting the amount of the tax under those circumstances.

(3) The officer may pursue 1 or more of the remedies provided in this section until such time as he has received the amount of the tax and interest thereon and costs allowed by this act or by law governing the

proceedings of civil actions in the circuit courts. The amount of the tax and interest thereon shall be disbursed by the officer in the same manner as the industrial facility tax is disbursed when first payable.

History: 1974, Act 198, Imd. Eff. July 9, 1974.

Popular name: Act 198

207.563 Tax applicable to real property as lien; automatic termination of exemption certificate; affidavit.

Sec. 13. (1) The amount of the tax applicable to real property, until paid, shall be a lien upon the real property to which the certificate is applicable. Except as provided in subsection (3), the tax shall become a lien on the property on the date the tax is levied. The appropriate parties may, subject to subsection (3), enforce the lien in the same manner as provided by law for the foreclosure in the circuit courts of mortgage liens upon real property.

(2) On or after the December 31 next following the expiration of 60 days after the service upon the owner of a certificate of nonpayment and the filing of the certificate of nonpayment, if payment has not been made within the intervening 60 days, provided for by subsection (1), the industrial facilities exemption certificate shall automatically be terminated.

(3) The treasurer of a county, township, city, or village may designate the tax day provided in section 2 of the general property tax act, 1893 PA 206, MCL 211.2, as the date on which industrial facility taxes become a lien on the real or personal property assessed by filing an affidavit in the office of the register of deeds for the county in which the real or personal property is located attesting that 1 or more of the following events have occurred:

(a) The owner or person otherwise assessed has filed a bankruptcy petition under the federal bankruptcy code, title 11 of the United States Code, 11 USC 101 to 1330.

(b) A secured lender has brought an action to foreclose on or to enforce an interest secured by the real or personal property assessed.

(c) For personal property only, the owner, the person otherwise assessed, or other person has liquidated or is attempting to liquidate the personal property assessed.

(d) The real or personal property assessed is subject to receivership under state or federal law.

(e) The owner or person otherwise assessed has assigned the real or personal property assessed for the benefit of his or her creditors.

(f) The real or personal property assessed has been seized or purchased by federal, state, or local authorities.

(g) A judicial action has been commenced that may impair the ability of the taxing authority to collect any tax due in the absence of a lien on the real or personal property assessed.

(4) The affidavit provided for in subsection (3) shall include all of the following:

(a) The year for which the industrial facility taxes due were levied.

(b) The date on which the industrial facility taxes due were assessed.

(c) The name of the owner or person otherwise assessed who is identified in the tax roll.

(d) The tax identification number of the real or personal property assessed.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 2004, Act 442, Imd. Eff. Dec. 21, 2004.

Popular name: Act 198

207.564 Industrial facility tax; amount of tax; determination; "industrial personal property" defined; termination or revocation; reduction.

Sec. 14. (1) The amount of the industrial facility tax, in each year for a replacement facility, shall be determined by multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is situated by the taxable value of the real and personal property of the obsolete industrial property for the tax year immediately preceding the effective date of the industrial facilities exemption certificate after deducting the taxable value of the land and of the inventory as specified in section 19.

(2) The amount of the industrial facility tax, in each year for a new facility or a speculative building for which an industrial facilities exemption certificate became effective before January 1, 1994, shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied for school operating purposes by a local school district within which the facility is located or mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus 1/2 of the number of mills levied for local school district operating purposes in 1993.

(3) Except as provided in subsection (4), the amount of the industrial facility tax in each year for a new

facility or a speculative building for which an industrial facilities exemption certificate becomes effective after December 31, 1993, shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus, subject to section 14a, the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(4) For taxes levied after December 31, 2007, for the personal property tax component of an industrial facilities exemption certificate for a new facility or a speculative building that is sited on real property classified as industrial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, the amount of the industrial facility tax in each year for a new facility or a speculative building shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than mills levied on industrial personal property under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and the number of mills from which industrial personal property is exempt under section 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211. For taxes levied after December 31, 2007, for the personal property tax component of an industrial facilities exemption certificate for a new facility or a speculative building that is sited on real property classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, the amount of the industrial facility tax in each year for a new facility or a speculative building shall be determined by multiplying the taxable value of the facility excluding the land and the inventory personal property by the sum of 1/2 of the total mills levied as ad valorem taxes for that year by all taxing units within which the facility is located other than the number of mills from which the property is exempt under section 1211(1) of the revised school code, 1976 PA 451, MCL 380.1211. As used in this subsection, "industrial personal property" means the following:

(a) Except as otherwise provided in subdivision (b), personal property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as industrial personal property.

(b) Beginning December 31, 2011, industrial personal property does not include a turbine powered by gas, steam, nuclear energy, coal, or oil the primary purpose of which is the generation of electricity for sale.

(5) For a termination or revocation of only the real property component, or only the personal property component, of an industrial facilities exemption certificate as provided in this act, the valuation and the tax determined using that valuation shall be reduced proportionately to reflect the exclusion of the component with respect to which the termination or revocation has occurred.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 334, Eff. Apr. 1, 1994;—Am. 1994, Act 266, Eff. Imd. July 6, 1994;—Am. 1996, Act 1, Imd. Eff. Jan. 30, 1996;—Am. 2007, Act 39, Imd. Eff. July 12, 2007;—Am. 2007, Act 146, Imd. Eff. Dec. 10, 2007;—Am. 2008, Act 457, Imd. Eff. Jan. 9, 2009;—Am. 2011, Act 319, Eff. Dec. 31, 2011.

Compiler's note: Act 165 of 1989, purporting to amend MCL 207.561 and 207.564, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

Popular name: Act 198

207.564a Reduction of mills used to calculate tax under MCL 207.564(3); exception.

Sec. 14a. Within 60 days after the granting of an industrial facilities exemption certificate under section 7 for a new facility, the state treasurer may exclude 1/2 or all of the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, from the specific tax calculation on the facility under section 14(3) if the state treasurer determines that reducing the number of mills used to calculate the specific tax under section 14(3) is necessary to reduce unemployment, promote economic growth, and increase capital investment in this state. This section does not apply to the personal property tax component of a certificate described in section 14(4).

History: Add. 1993, Act 334, Eff. Apr. 1, 1994;—Am. 1994, Act 266, Imd. Eff. July 6, 1994;—Am. 2007, Act 39, Imd. Eff. July 12, 2007.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the state treasurer to grant exclusions from the state education tax to the Michigan jobs commission, see E.R.O. No. 1995-1, compiled at MCL 408.49 of the Michigan Compiled Laws.

Popular name: Act 198

207.564b Repealed. 1994, Act 266, Imd. Eff. July 6, 1994.

Compiler's note: The repealed section pertained to determination of tax for which industrial facility exemption certificate effective.

207.565 Revocation of exemption certificate; request; grounds; notice; hearing; order; effective date; revocation of certificate issued for speculative building; reinstatement of certificate.

Sec. 15. (1) Upon receipt of a request by certified mail to the commission by the holder of an industrial facilities exemption certificate requesting revocation of the certificate, the commission shall by order revoke the certificate in whole or revoke the certificate with respect to its real property component, or its personal property component, whichever is requested.

(2) The legislative body of a local governmental unit may by resolution request the commission to revoke the industrial facilities exemption certificate of a facility upon the grounds that, except as provided in section 7a, completion of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate, unless a greater time has been authorized by the commission for good cause; that the replacement, restoration, or construction of the facility has not occurred within 6 years after the date the initial industrial facilities exemption certificate was issued as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the purposes for which the certificate was issued are not being fulfilled as a result of a failure of the holder to proceed in good faith with the replacement, restoration, or construction and operation of the replacement facility or new facility or with the use of the speculative building as a manufacturing 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.

(3) Upon receipt of the resolution, the commission shall give notice in writing by certified mail to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit, and to the legislative body of each local taxing unit which levies taxes upon property in the local governmental unit in which the facility is located. The commission shall afford to the holder of the certificate, the local legislative body, the assessor, and a representative of the legislative body of each taxing unit an opportunity for a hearing. The commission shall by order revoke the certificate if the commission finds that completion except as provided in section 7a of the replacement facility or new facility has not occurred within 2 years after the effective date of the certificate or a greater time as authorized by the commission for good cause; that completion of the speculative building has not occurred within 2 years after the date the certificate was issued except as provided in section 7a, unless a greater time has been authorized by the commission for good cause; that a speculative building for which a certificate has been issued but is not yet effective has been used as other than a manufacturing facility; that the certificate issued for a speculative building has not become effective within 2 years after the December 31 following the date the certificate was issued; or that the holder of the certificate has not proceeded in good faith with the replacement, restoration, or construction and operation of the facility or with the use of the speculative building as a manufacturing facility in good faith in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder.

(4) The order of the commission revoking the certificate shall be effective on the December 31 next following the date of the order and the commission shall send by certified mail copies of its order of revocation to the holder of the certificate, to the local legislative body, to the assessor of the assessing unit in which the facility is located, and to the legislative body of each taxing unit which levies taxes upon property in the local governmental unit in which the facility is located.

(5) A revocation of a certificate issued for a speculative building shall specify and apply only to that portion of the speculative building for which the grounds for revocation relate.

(6) Notwithstanding any other provision of this act, upon the written request of the holder of a revoked industrial facilities exemption certificate to the local unit of government and the commission or upon the application of a subsequent owner to the local governing body to transfer the revoked industrial facilities exemption certificate to a subsequent owner, and the submission to the commission of a resolution of concurrence by the legislative body of the local unit of government in which the facility is located, and if the facility continues to qualify under this act, the commission may reinstate a revoked industrial facilities exemption certificate for the holder or a subsequent owner that has applied for the transfer.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982;—Am. 1996, Act 513, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 170, Imd. Eff. July 2, 2008;—Am. 2010, Act 122, Imd. Eff. July 19, 2010.

Popular name: Act 198

****** 207.566 SUBSECTION (2) MAY NOT APPLY: See (2) of 207.566 ******

207.566 Duration of industrial facilities exemption certificate; date of issuance of certificate of occupancy.

Sec. 16. (1) Unless earlier revoked as provided in section 15, an industrial facilities exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the local governmental unit and commencing with its effective date and ending on the December 31 next following not more than 12 years after the completion of the facility with respect to both the real property component and the personal property component of the facility. The date of issuance of a certificate of occupancy, if one is required, by appropriate municipal authority shall be the date of completion of the facility.

(2) In the case of an application which was not filed within 12 months after the commencement of the restoration, replacement, or construction of the facility but was filed within the succeeding 12-month period as provided in section 9(2)(a), the industrial facilities exemption certificate, unless earlier revoked as provided in section 15, shall remain in force and effect for a period commencing with its effective date and ending on the December 31 next following not more than 11 years after completion of the facility with respect to both the real property component and the personal property component of the facility. The date of issuance of a certificate of occupancy, if one is required, by appropriate municipal authority shall be the date of completion of the facility. This subsection shall not apply for certificates issued after December 31, 1983.

(3) In the case of an application filed pursuant to section 9(4), an industrial facilities exemption certificate, unless earlier revoked as provided in section 15, shall remain in force and effect for a period to be determined by the legislative body of the local governmental unit and commencing on the effective date of the certificate and ending on the December 31 next following not more than 11 years after the effective date of the certificate.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1976, Act 224, Imd. Eff. July 30, 1976;—Am. 1978, Act 38, Imd. Eff. Feb. 24;—Am. 1982, Act 417, Imd. Eff. Dec. 28, 1982.

Popular name: Act 198

207.566a Industrial facilities exemption certificate; provisions.

Sec. 16a. If an industrial facilities exemption certificate for a replacement facility, a new facility, or a speculative building becomes effective after December 31, 1995, for a period shorter than the maximum period permitted under section 16, then both of the following apply:

(a) The owner or lessee of the replacement facility, new facility, or speculative building may, within the final year in which the certificate is effective, within 12 months after the certificate expires, or, as permitted by the local governmental unit, at any other time in which the certificate is in effect apply for another certificate under this act. If the legislative body of a local governmental unit disapproves an application submitted under this subdivision, then the applicant has no right of appeal of that decision as described in section 6.

(b) The legislative body of a local governmental unit shall not approve applications for certificates the sum of whose periods exceeds the maximum permitted under section 16 for the user or lessee of a replacement facility, new facility, or speculative building.

History: Add. 1996, Act 94, Imd. Eff. Feb. 28, 1996;—Am. 2008, Act 306, Imd. Eff. Dec. 18, 2008.

Popular name: Act 198

207.567 Assessment of real and personal property comprising facility; notice of determination.

Sec. 17. (1) The assessor of each city or township in which is located a facility with respect to which an industrial facilities exemption certificate is in force shall annually determine, with respect to each such facility, an assessment of the real and personal property comprising the facility having the benefit of an industrial facilities exemption certificate which would have been made under Act No. 206 of the Public Acts of 1893, as amended, if the certificate had not been in force. A holder of an industrial facilities exemption certificate shall furnish to the assessor such information as may be necessary for the determination.

(2) The assessor, having made the determination, shall annually notify the commission, the legislative body of each unit of local government which levies taxes upon property in the city or township in which the facility is located, and the holder of the industrial facilities exemption certificate of the determination, separately stating the determinations for real property and personal property, by certified mail not later than October 15 based upon valuations as of the preceding December 31.

History: 1974, Act 198, Imd. Eff. July 9, 1974.

Popular name: Act 198

207.568 Rules.

Sec. 18. The commission may promulgate rules as it deems necessary for the administration of this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1974, Act 198, Imd. Eff. July 9, 1974.

Popular name: Act 198

Administrative rules: R 209.51 to R 209.57 of the Michigan Administrative Code.

207.569 Form and contents of exemption certificate.

Sec. 19. An industrial facilities exemption certificate shall be in the form the commission determines but shall contain:

(a) A legal description of the real property on which the facility is or is to be 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) In the case of a replacement facility a statement of the state equalized valuation of the obsolete industrial property, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the state equalized valuation of the land and inventory.

History: 1974, Act 198, Imd. Eff. July 9, 1974.

Popular name: Act 198

207.570 Appeal.

Sec. 20. A party aggrieved by the issuance or refusal to issue, revocation, transfer, or modification of an industrial facilities exemption certificate may appeal from the finding and order of the commission in the manner and form and within the time provided by Act No. 306 of the Public Acts of 1969, as amended.

History: 1974, Act 198, Imd. Eff. July 9, 1974.

Popular name: Act 198

207.571 Transfer and assignment of industrial facilities exemption certificate.

Sec. 21. (1) An industrial facilities exemption certificate may be transferred and assigned by the holder of the industrial facilities exemption certificate to a new owner or lessee of the facility but only with the approval of the local governmental unit and the commission after application by the new owner or lessee, and notice and hearing in the same manner as provided in section 5 for the application for a certificate.

(2) If the owner or lessee of a facility for which an industrial facilities exemption certificate is in effect relocates that facility outside of the industrial development district or plant rehabilitation district during the period in which the industrial facilities exemption certificate is in effect, the owner or lessee is liable to the local governmental unit from which it is leaving, upon relocating, for an amount equal to the difference between the industrial facilities tax to be paid by the owner or lessee of that facility for that facility for the tax years remaining under the industrial facilities exemption certificate that is in effect and the general ad valorem property tax that the owner or lessee would have paid if the owner or lessee of that facility did not have an industrial facilities exemption certificate in effect for those years. If the local governmental unit determines that it is in its best interest, the local governmental unit may forgive the liability of the owner or lessee under this subsection. The payment provided in this subsection shall be distributed in the same manner as the industrial facilities tax is distributed.

History: 1974, Act 198, Imd. Eff. July 9, 1974;—Am. 1999, Act 140, Imd. Eff. Oct. 18, 1999.

Popular name: Act 198

207.572 Industrial facilities exemption certificate; requirements for approval and issuance; application for industrial facilities exemption certificate for eligible next Michigan business; written agreement required; remedy provision.

Sec. 22. (1) A new industrial facilities exemption certificate shall not be approved and issued under this act after April 1, 1994, unless a written agreement is entered into between the local governmental unit and the person to whom the certificate is to be issued, and filed with the department of treasury.

(2) A next Michigan development corporation shall not approve an application for an industrial facilities exemption certificate for an eligible next Michigan business without a written agreement entered into with the eligible next Michigan business containing a remedy provision that includes, but is not limited to, all of the

following:

(a) A requirement that the industrial facilities exemption certificate is revoked if the eligible next Michigan business is determined to be in violation of the provisions of the written agreement.

(b) A requirement that the eligible next Michigan business may be required to repay all or part of the benefits received under this act if the eligible next Michigan business is determined to be in violation of the provisions of the written agreement.

History: Add. 1993, Act 334, Eff. Apr. 1, 1994;—Am. 1994, Act 266, Eff. Imd. July 6, 1994;—Am. 2010, Act 273, Imd. Eff. Dec. 15, 2010.

Popular name: Act 198

INDUSTRIAL PROPERTY TAX ABATEMENT (P.A. 198 OF 1974, AS AMENDED)

Industrial property tax abatements provide incentives for eligible businesses to make new investment in Michigan. These abatements encourage Michigan manufacturers to build new plants, expand existing plants, renovate aging plants, or add new machinery and equipment. High-technology operations are also eligible for the abatement. 'High-technology activity' is defined in the Michigan Economic Growth Authority (MEGA) Act as: advanced computing, advanced materials, biotechnology, electronic device technology, engineering or laboratory testing related to product development, medical device technology, product research and development and advanced vehicles technology or technology that assists in the assessment or prevention of threats or damage to human health or the environment. Abatements Under P.A. 198 can significantly reduce property taxes on new investment for eligible firms.

ESTABLISHING THE DISTRICT

Tax benefits are granted by the legislative body of the city, township or village in which the investment will be located. A public hearing is held and a resolution is adopted to approve the establishment of an Industrial Development District (for a new project) or a Plant Rehabilitation District (for a rehabilitation project). A written request to establish the district must be filed with the clerk of the local unit of government prior to commencement of construction, alteration or installation of equipment.

Once the district is established, the company may apply for an abatement on property taxes (real and personal) for up to 12 years.

APPLICATION PROCESS

Industrial property tax abatements must be approved at both the local and state levels. The eligible business files an application (Michigan Department of Treasury Form 1012) with the local clerk after the district has been established and no later than six months after commencement of the project. The local unit adopts a resolution approving the application and determines the length of years for the abatement. After a local public hearing, the application is filed and reviewed by the State Tax Commission (STC) and the Michigan Economic Development Corporation[SM] (MEDC). The STC then grants final approval and issues the exemption certificate. Locally approved applications (with attachments) must be received by the STC no later than October 31, in order to receive consideration and action by December 31.

Applications to the STC must include an agreement signed by the local unit and the operator of the facility outlining the conditions of the abatement. This shall include an affidavit that no payment of any kind in excess of the fee allowed under the Act has been made or promised in exchange for favorable consideration of the exemption application.

Once approved, the firm pays an Industrial Facilities Exemption (IFE), instead of the property tax, that reflects the abatement savings.

ELIGIBLE FACILITIES

Industrial plants eligible for tax abatement are those that primarily manufacture or process goods or materials by physical or chemical change. Related facilities of Michigan manufacturers such as offices, engineering, research and development, warehousing or parts distribution are also eligible for exemption.

Research and development laboratories, high-tech facilities and large communications centers can qualify throughout Michigan.

Facilities used for warehousing, distribution or logistics purposes can be eligible if they locate in specific border counties. At least 90% of the property, excluding the surrounding green space, must be used for warehousing, distribution, logistics or communications center and occupy a building or structure that is more than 100,000 square feet. Eligible border counties include Berrien, Branch, Cass, Chippewa, Dickinson, Gogebic, Hillsdale, Iron, Lenawee, Menominee, Monroe, St. Clair, St. Joseph and Wayne.

The exemption applies to buildings, building improvements, machinery, equipment, furniture and fixtures. Real and personal property are eligible whether owned or leased (provided the lessee is liable for payment of taxes on the property).

The exemption covers only the specific project that is the subject of the application. Any buildings and equipment that existed prior to construction of a new facility are not exempt. If the project is for rehabilitation, the value of any pre-existing obsolete property is exempt from ad valorem property taxes, but will be used as the base for the IFE. Similarly, any structures or equipment added after completion of the project are fully taxable.

Land is specifically excluded from the benefits of the act and is fully taxable.

TAX IMPACT

The New Industrial Personal Property Exemption and IFE Treatment

Under the reforms related to the Michigan Business Tax (MBT), industrial personal property situated on industrial parcels will automatically be exempt from the 6-mill State Education Tax (SET) and 18 mills for local schools. The automatic exemption of 24 mills will continue after the IFE expires. The remaining local mills will be abated 50% under P.A. 198.

Real and Non-Industrial Personal Property IFE Treatment

The IFE on a new plant and non-industrial personal property (like high-tech personal property) is computed at half the local property tax millage rate. This amounts to a reduction in property taxes of approximately 50%. In addition, the 6-mill SET may be abated 100%, 50% or not at all. Any SET abatement must be negotiated with the MEDC.

Rehabilitation of Real or Personal Property IFE Treatment

For an obsolete plant or machinery that is being replaced or restored, the IFE is frozen at the assessed value of the plant prior to improvement. This results in a 100% exemption from property tax on the value of the improvements.

Speculative Building IFE Treatment

In order for a speculative building to qualify for abatement, the local unit must approve a resolution declaring it as a speculative building prior to identifying occupants. Initial construction and finishing costs would be eligible for a reduction in property taxes of approximately 50%.

ADDENDUM

Personal Property Tax Relief

In addition to the automatic reduction of 24 mills on industrial personal property, manufacturers are allowed to claim a 35% tax credit on the MBT form for property taxes paid on the same industrial personal property. The estimated overall impact is a 65% reduction in property taxes on industrial personal property.

Commercial personal property will receive an automatic reduction of 12 mills for local schools on their property tax bill.

For more information, contact the MEDC Customer Assistance Center at 517.373.9808.

Frequently Asked Questions (FAQ)
Plant Rehabilitation and Industrial Development Act (Industrial Facilities Exemption)
(PA 198 of 1974, as amended)

The following frequently asked questions are being provided as a service to assessors and taxpayers to better inform them about the administration of Public Act 198 of 1974, as amended.

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 an Industrial Facilities Exemption?

The Plant Rehabilitation and Industrial Development Districts Act, (known as the Industrial Facilities Exemption) PA 198 of 1974, as amended, provides a tax incentive to manufacturers to enable renovation and expansion of aging facilities, assist in the building of new facilities and to promote the establishment of high tech facilities. An Industrial Development District (IDD) or a Plant Rehabilitation District (PRD) must be created prior to initiating a project so it is essential that you consult your local assessor before commencing a project. An Industrial Facilities Exemption (IFE) certificate entitles the facility to exemption from ad valorem real and/or personal property taxes for a term of 1-12 years as determined by the local unit of government. Applications are filed, reviewed and approved by the local unit of government, but are also subject to review at the State level by the Property Services Division and the Michigan Economic Development Corporation. The State Tax Commission (STC) is ultimately responsible for final approval and issuance of certificates. Exemptions are not effective until approved by the STC.

2. What is the difference between an Industrial Development District and a Plant Rehabilitation District?

The main difference is that an Industrial Development District (IDD) covers only new facility projects and a Plant Rehabilitation District (PRD) is designed primarily for rehabilitation projects and requires a finding that 50% or more of the industrial property within the district is obsolete. (See MCL 207.554(5).) The 50% obsolescence requirement is measured by dividing the State Equalized Value (SEV) of the obsolete property by the SEV of all of the properties in the district and multiplying the result by 100.

3. Should a Plant Rehabilitation District (PRD) include only the project that is currently being rehabilitated?

Yes. This recommendation allows applicants to apply for additional replacement facilities where they otherwise might not be allowed. [This is true because in order to have a PRD, at least 50% of the properties in the rehabilitation district must be obsolete. This is measured by dividing the State Equalized Value (SEV) of the obsolete properties in the district by the SEV of all properties in the district and multiplying the result by 100.]

In the case of a district which was created many years ago and encompassed many separate buildings, several separate Industrial Facilities Exemption Certificates could have been issued over the years. The result is that when the assessor calculates whether 50% of the property in the district is obsolete, there may be so many new and rehabilitated properties that have returned to the ad valorem roll that the 50% obsolescence requirement cannot be met.

The following procedure has been utilized to assist in identifying the exact parameter of the project that is being replaced and the taxable value to be frozen:

a. Designate a PRD with a legal description that specifically matches the description of the replacement portion or project to be rehabilitated in the application. The legal description of the district will encompass only the building or portion of the building or machinery and equipment that is being rehabilitated.

   If the PRD includes more than the property currently being rehabilitated, an exemption certificate may be granted in the future to additional properties within the district even though the local unit objects to it.

b. Request that the assessor provide the Taxable Value (TV) of all of the real and/or personal property contained within the boundaries of the specifically described PRD. This figure becomes the frozen TV of the facility.

   It has been the practice of the State Tax Commission (STC) to request that the SEV/TV of the entire PRD for a rehabilitation project be frozen. Many of the early applications involved projects in large established PRD districts where the SEVs of the entire PRD were later found to include additional buildings/personal property that were contained within the district and frozen but were not being rehabilitated at the time of the application. This was at times found to be detrimental to both the company and the local units. The detriment for companies was that there was no allowance on frozen assessments for the depreciation of buildings and equipment. In order to correct the frozen assessment, the company would have to request revocation of the certificate.

4. Can a request to establish an Industrial Development District or a Plant Rehabilitation District be denied?

Yes. A local unit can refuse to establish a district and the requestor cannot appeal that decision. Once a district is established, a local unit cannot stop an application within the established district from being submitted, acted upon and given the full right to the appeal process.

5. Is there a procedure for dissolving an Industrial Development District or a Plant Rehabilitation District?

Yes. Guidelines for the dissolving of a district can be found in MCL 207.554(8), which states the following:

> "A local governmental unit, by resolution of its legislative body, may terminate a plant rehabilitation district or an industrial development district, if there are no industrial facility exemption certificates in effect in the plant rehabilitation district or the industrial development district on the date of the resolution to terminate."

6. How do I apply for an Industrial Facilities Exemption Certificate?

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

File two copies of the completed application and all attachments with the clerk of the local governmental unit where the facility is located. You must meet the following qualifications of the Act:

a. The facility must be located within an established Industrial Development or Plant Rehabilitation District;

b. The applicant is a qualifying business as outlined in MCL 207.552; and

c. The application for the exemption can be prefiled, but must be filed within six months of the commencement of the improvements.

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

Yes. There are several provisions which cause the application process to be very time-sensitive.

> MCL 207.553(8)(b) provides that a speculative building must be one that is constructed *before* a specific user is identified.
>
> MCL 207.554(3) requires that the request for the establishment of a proposed Plant Rehabilitation District (PRD) or Industrial Development District (IDD) must be made *prior* to the start of construction of the property for which exemption is being sought.
>
> MCL 207.554(4) requires that *before* adopting a resolution establishing a PRD or IDD the legislative body shall give written notice by certified mail to the owners of all real property within the proposed PRD or IDD, hold a public hearing on the proposed establishment, and grant a right to appear and be heard regarding same.

MCL 207.554(9) provides that *before* acting on a proposed resolution terminating a PRD or IDD, the local unit shall give at least 14 days written notice by certified mail to owners of all real property within the PRD or IDD and hold a hearing at which those owners have a right to appear and be heard.

MCL 207.555(2) requires that *before* acting upon an application, the legislative body of the local governmental unit shall afford the applicant, the assessor and a representative of the affected taxing units an opportunity for a hearing.

MCL 207.556 requires that no more than 60 days after the clerk's receipt of the application, the legislative body of the local governmental unit shall, by resolution, either approve or disapprove the application. Further, the clerk shall forward the approved application to the commission within 60 days of that approval or before October 31 of that year, whichever is first. In the case of a disapproval of the application, the applicant has 10 days after the date of the disapproval to appeal to the commission.

MCL 207.559(2) requires that the start of construction of the facility cannot occur more than 6 months before the filing of the application for the Industrial Facilities Exemption Certificate with the clerk of the local unit of government.

State Tax Commission Rule No. 57 states that a complete application (with all required attachments) received by the State Tax Commission on or before October 31 will be acted on by the Commission before December 31 of that year. Applications received after October 31 will be processed contingent upon staff availability.

8. Can an application for an Industrial Facilities exemption Certificate (IFEC) be denied?

Yes. An application can be denied by the local governmental unit (LGU) or by the State Tax Commission (STC) if all of the requirements are not met by the applicant.

9. Can a decision of the State Tax Commission (STC) regarding an industrial facilities Exemption Certificate (IFEC) be appealed?

Yes. MCL 207.570 states as follows:

> "A party aggrieved by the issuance or refusal to issue, revocation, transfer, or modification of an industrial facilities exemption certificate may appeal from the finding and order of the commission in the manner and form and within the time provided by Act No. 306 of the Public Acts of 1969, as amended."

PA 206 of 1969, also known as the Administrative Procedures Act (APA) provides for an appeal to the circuit court within 60 days of the date the STC denies the application for an IFEC. (See MCL 24.301 through MCL 24.306.)

10. Is it possible for an Industrial Facilities Exemption Certificate to remain in effect for more than 12 years?

Yes. The local unit determines the number of years granted for an exemption request. The number of years can be anywhere from 1 to 12 years with the exception discussed below for the period of construction. If the local unit decides to grant exactly 12 years, it should state this in the resolution, as discussed below in Example #1. If the local unit chooses to grant the application for a period of time greater than 12 years, (*i.e.,* 1-2 years as partially complete and 12 years as fully completed), the local unit should use the language discussed in Example #2 below to accomplish this.

> **Example #1:** If the resolution states "12 years," the ending date of the certificate will be 12 years added to the tax day on which the exemption becomes effective.
>
> **Example #2:** If the resolution states "12 years after completion," the ending date of the certificate will be 12 years added to up to 2 years of construction time. This would allow up to a 14-year exemption period. This could be further extended if an extension of time is granted as provided by STC Rule No. 53.

11. What determines the starting date of an Industrial Facilities Exemption Certificate (IFEC)?

The starting date of the term of an IFEC is December 31st of the year the certificate is issued by the State Tax Commission (STC). [Example: a certificate issued on November 12, 2008 would have a start date of December 31, 2008.]

12. Why is a certificate sometimes issued by the State Tax Commission (STC) for a longer period of time than what was approved by the local unit?

There may be a variance due to the local unit's resolution stating the number of years as "after completion." The resolution may be corrected any time prior to being submitted to the STC for issuance of the certificate. After issuance, no corrections are allowed except in the case of an extension of time to complete, as provided by STC Rule No. 53.

13. Can the ending date of an Industrial Facilities Exemption Certificate be changed after it is issued by the State Tax Commission (STC)?

Yes. The statute calls for the certificate to be issued by the local unit for the number of years it designates. The ending date is determined by the language in the resolution.

Once the certificate is issued, the ending date can only be changed when one of the following applies:

a. STC Rule No. 53, which provides for an extension of time to complete the project.

b. MCL 207.557a which applies to facilities that exceed $150,000,000 of State Equalized Value (SEV).

c. MCL 207.566a which applies to certificates issued after December 31, 1995, for which the exemption period is shorter than the maximum allowed under MCL 207.566.

14. Can the duration of an Industrial Facilities Exemption Certificate (IFEC) be extended?

Perhaps. An IFEC can be approved for a maximum of 12 years. Local units may grant less than the 12-year maximum term when granting exemptions based on criteria they have adopted. (See MCL 207.566a.) Some local units allow extensions beyond the original term granted and some do not. A local unit may state in its original resolution the number of years being granted and include an extension provision which contains the criteria to be used to determine whether someone qualifies for an extension. This could be done at the start of the exemption process.

15. How is the tax computed for a new facility?

Real Property
The Act states that the tax computation for new facility real property is determined by multiplying the Taxable Value (TV) of the facility by ½ of the total mills other than the State Education Tax (SET) mills levied as ad valorem taxes for that year by all of the taxing units where the property is located plus the total SET mills, unless receiving a 100% or 50% abatement from the State Treasurer under MCL 207.564a.

Personal Property Sited on Real Property Classified as Industrial Real Property
The Act states that the tax computation for new facility personal property sited on real property classified as industrial real property is determined by multiplying the TV of the facility by ½ of the total mills other than the local school district (LSD) Operating mills and SET mills levied as ad valorem tax for that year by all of the taxing units where the property is located, plus ½ of the Hold-Harmless mills.

Personal Property Sited on Real Property Classified as Commercial Real Property
The Act states that the tax computation for new facility personal property sited on real property classified as commercial real property is determined by multiplying the TV of the facility by ½ of the total mills (including SET mills) other than the LSD Operating mills levied as ad valorem tax for that year by all of the taxing units where the property is

located, plus ½ of the sum of LSD Operating mills minus 12 mills, plus ½ of the Hold-Harmless mills.

Personal Property Sited on Real Property Not Classified as Industrial or Commercial Real Property

The Act states that the tax computation for new facility personal property sited on real property not classified as industrial or commercial real property is determined by multiplying the TV of the facility by ½ of the total mills other than the SET mills levied as ad valorem tax for that year by all of the taxing units where the property is located plus the total SET mills unless receiving a 100% or 50% abatement from the State Treasurer under MCL 207.564a.

A parcel of property holding a new Industrial Facilities Exemption Certificate (IFEC) will have two assessments: the land will be addressed on the regular (ad valorem) assessment roll that the assessor has turned over to the March Board of Review and the building, land improvements and personal property (pertaining to the same certificate) will have an assessment on the Industrial Facility Tax tax roll.

PA 1 of 1996 requires the assessor to calculate a Capped Value and a Taxable Value for the building and land improvements of a parcel of real property holding a new IFEC.

Taxes on a property holding a new certificate shall be levied against the TV of the property, not the SEV. The TV of real property which has a new certificate is calculated the same way that TV is calculated for the non-IFT, ad valorem assessment roll.

The property's land assessment on the ad valorem roll may be adjusted by the March Board of Review. The IFT tax roll assessment of a new IFEC may also be adjusted by the March Board of Review.

16. How is the tax computed for a "replacement facility"?

The Act states that the tax computation for a replacement facility is determined by multiplying the total mills levied as ad valorem taxes by the Taxable Value (TV) of the real and/or personal component of the obsolete industrial property for the tax year immediately preceding the effective date of the certificate.

A parcel of property holding a "rehabilitation" Industrial Facilities Exemption Certificate will have two assessments. The land will be assessed on the regular (ad valorem) assessment roll that the assessor has turned over to the March Board of Review. The building, land improvements and personal property (pertaining to the same certificate) will have an assessment on the Industrial Facility Tax (IFT) tax roll. The taxes on properties holding a "rehabilitation" or "replacement" certificate shall be levied against TV.

The TV of a property on the IFT tax roll with a "rehabilitation" or "replacement" certificate is the amount of the TV of the real and/or personal property for the tax year immediately preceding the effective date of the certificate. That amount is frozen until the exemption certificate expires.

The TV of a property on the IFT tax roll with a "rehabilitation" or "replacement" certificate which began PRIOR to 1995 will still be the same as the frozen SEV for the property until the exemption certificate expires. The TV of a property covered by a rehabilitation or replacement certificate which began in 1995 or AFTER will be the same as the frozen TV for the property until the exemption certificate expires.

The property's land assessment on the ad valorem roll may be adjusted by the March Board of Review. The IFT tax roll assessment of a property with a rehabilitation or replacement certificate cannot have its assessment altered by the Board of Review during the term of the certificate.

17. Can a 1% Administration Fee be added to an Industrial Facility Tax (IFT) tax roll?

Yes. Per MCL 207.561, Section 11(1), the 1% Administration Fee can be added to an IFT tax roll.

18. Why are the dollar amounts on some Industrial Facilities Exemption Certificates (IFEC) different from what was applied for?

If the dollar amounts on a certificate are different from what was applied for, it may have been changed by Property Services Division (PSD) staff due to one of the following reasons:

a. The application was filed more than 6 months after the start of construction of real property or the start of installation of personal property. See also Question #10.

b. Some of the equipment was existing equipment which is ineligible for exemption as new property. See also Question #11.

c. Used equipment was purchased from another manufacturing company, not from a broker of used equipment. See also Question #11.

d. The application involves leased property but the property tax liability is not held by the applicant. In other words, the applicant is not responsible for direct payment of taxes to the local unit. See MCL 207.552(6).

19. What happens when an incomplete application for an Industrial Facilities Exemption Certificate (IFEC) is received?

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.

20. What types of equipment qualify as new industrial property as defined in MCL 207.552(4)?

The State Tax Commission (STC) has interpreted the term "new industrial property" to mean new to the tax base in Michigan. Following this interpretation, the following would be considered new industrial property:

a. New equipment purchased from an equipment manufacturer.

b. Used equipment never before located in Michigan.

c. Used equipment purchased from a broker of used equipment with the rationale that because the prior owner is a broker, the equipment has lost its status as existing equipment in Michigan as it has become inventory.

The following would not qualify as new industrial property:

a. Existing equipment already in the possession of the applicant.

b. Existing equipment in the possession of another Michigan company.

21. Can an application for an Industrial Facilities Exemption Certificate (IFEC) include equipment/devices which are also going to be submitted for an Air or Water Pollution Control Exemption?

Yes. It is recommended that all new equipment and machinery be included in the IFEC application so that the equipment and machinery meet the timeline requirements of PA 198 of 1974, as amended. The same equipment can then also be submitted for an Air or Water Pollution Control Exemption. If all of the property does not qualify as exempt Air or Water Pollution Control equipment, the remainder may then qualify for the IFEC exemption. Refer to the Air or Water Pollution Control Exemption FAQs for more information.

22. Can a real property replacement facility include more floor space than the original obsolete facility?

Yes. MCL 207.552(3) states that a replacement facility can consist of either replacement or restoration. MCL 207.553(5) defines "replacement" as:

> "...the complete or partial demolition of obsolete industrial property and the complete or partial reconstruction or installation of new property of similar utility."

"Replacement" usually involves the construction of a new building or a part of a building. "Restoration" is defined in MCL 207.553(6) as:

> "... changes to obsolete industrial property other than replacement as may be required to restore the property ... to an economically efficient functional condition."

When replacement includes additional floor space, it can still be a replacement facility, provided that the building does not exceed the size of the original building by more than 10%. If the replacement building exceeds the size of the original by more than 10%, the additional space must be treated as a new facility. The tax on a new facility is calculated differently from the tax on a replacement facility.[1] When restoration includes more floor space than the original building, ALL of the additional floor space is treated as a new facility.

23. Why are some projects approved by the State Tax Commission (STC) as new facilities even though they were submitted as rehabilitation facilities?

If an application was submitted as a rehabilitation facility project but was approved as a new facility, it may be due to one of the following reasons:

a. The description of the investment undertaken did not speak to restoration and/or replacement of a functionally obsolete facility involving major improvements such as roof, windows, plumbing, heating, code compliances, etc.

b. The Plant Rehabilitation District (PRD) in which the project is located no longer qualifies as a PRD because at least 50% of the properties in the district are no longer obsolete. Therefore, only new facilities can be located within the district.

c. The district established was an Industrial Development District (IDD) in which only new projects are allowed, not a PRD.

d. The local unit's resolution approving the request approved a new facility project, not a rehabilitation project.

24. Can leased equipment qualify for an Industrial Facilities Exemption Certificate?

Yes, under the following conditions:

1. The length of the lease must be as long as or longer than the length of the certificate to be granted.

[1] See MCL 207.564 regarding the calculation of the industrial facility tax for new and replacement facilities.

2. The lessee must have the tax liability for the length of the certificate to be granted. (Any indication that the taxes are being paid "as additional rent" is not acceptable.)

25. Can an Industrial Facilities Exemption Certificate (IFEC) be transferred to a new owner?

Yes. MCL 207.571 states as follows:

> "An industrial facilities exemption certificate may be transferred and assigned by the holder of the industrial facilities exemption certificate to a new owner or lessee of the facility but only with the approval of the local governmental unit and the commission after application by the new owner or lessee, and notice and hearing in the same manner as provided under section 5 for the application for a certificate."

Once the application for transfer has been presented to the local unit, they must review the application and issue a decision after a review of the prerequisites and qualifications contained in MCL 207.559. If the local unit denies the application, the applicant may appeal to the State Tax Commission (STC), pursuant to MCL 207.556. If the local unit approves the application, the STC must make a decision pursuant to MCL 207.557. If the local unit disapproves the application and the taxpayer files an appeal with the STC within 10 days, the STC shall review the facility to determine if it meets the qualifications in MCL 207.559. If the STC denies the approval, the applicant may appeal pursuant to the Administrative Procedures Act (APA).

The STC has allowed a shortened procedure for transfers when they involve a name change only. This is the case when the ownership remains exactly the same and the activity at the facility remains the same. The only change is in the name of the owner. Certain mergers and restructuring may also qualify for this shortened procedure. Please contact the Tax Exemption Section at (517) 373-2408 with questions regarding transfers involving a name change, mergers, and restructurings.

26. Company "A" has an Industrial Facilities Exemption Certificate that was issued a year ago. They have purchased new equipment that qualified for exemption. Is it more advantageous to add this new equipment to the existing Exemption Certificate or apply for a new exemption certificate for this equipment?

As long as the new equipment is purchased within the two-year post construction period from the effective date of the original issuance of the certificate, the equipment may be added by amending the existing certificate. If the new equipment purchase is closer to the end of the two-year post construction period from the effective date of the original issuance of the certificate, it may be more advantageous to apply for a new certificate for this equipment thereby attaining a greater number of years of exemption than could be gained by an amendment.

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

Yes. MCL 207.565 states that a certificate can be revoked if the project has not been completed in a two-year time period from the issuance of the certificate. STC Rule No. 53 allows for a one-year extension of time to complete a project. If a resolution is received by the State Tax Commission (STC) and it does not specifically state that the local unit is granting a three-year construction completion period, the assumption is made that the local unit is only granting a two-year construction completion period. Companies may obtain a third year to complete construction through a resolution by the local governmental unit granting a one-year extension of time as outlined in STC Rule No. 53. Upon receipt of a request for an extension, the local unit may: (a) deny the request; (b) approve the request with no change in the ending date of the certificate issued; or (c) approve the extension of time for the completion of the project and a revised ending date on the certificate. Depending upon the outcome at the local level, the request for an extension of time for the completion of a project shall be filed with the commission by the certificate holder and shall be accompanied by a resolution of approval adopted by the local governmental unit. Please see MCL 207.557a for the construction period of a facility whose cost will exceed $150,000,000 of state equalized value.

28. What happens when the cost or the size of the project turns out to be greater than what was stated on the original application?

The Property Services Division (PSD) staff distinguishes between an increase in costs versus an amendment to the project. For example, if the original application listed 10 computers at a total cost of $20,000, but it turns out that the 10 computers cost a total of $25,000 that is an increase in costs. However if the original application listed 10 computers at a total cost of $20,000 but it turn out that 20 computers were purchased at a total cost of $40,000, that is determined to be an amendment.

If there is an increase in costs of the project that exceeds the original approved amount by 10% or less, it is not necessary for the local unit to approve the new amount. If the increase is greater than 10%, the procedures in STC Rule No. 54 must be followed. STC Rule No. 54 states that the certificate holder shall request that the local governmental unit approve the revised cost if greater than 10% over the original approved amount. If the local unit approves the revised cost, the holder of the certificate shall request that the commission issue a revised certificate. The request shall be accompanied by a copy of the resolution of approval adopted by the local governmental unit.

When additional real and/or personal property components are added, an amendment to the project has occurred, and regardless of the dollar amount of the additional property, it must be approved at the local level and ultimately by the STC.

29. Can an Industrial Facilities Exemption Certificate (IFEC) be revoked? If yes, who holds the authority to do so?

Yes. MCL 207.565 provides for the revocation of an IFEC. MCL 207.565(1) addresses requests for revocations initiated by the holder of the certificate. MCL 207.565(2) addresses requests for revocation initiated by the local governmental unit and includes specific reasons why a certificate may be revoked. In either case, only the State Tax Commission (STC) has the authority to revoke a certificate.

A party aggrieved by a revocation by the STC may appeal the revocation under the provisions of the Administrative Procedures Act (APA). The APA provides that a request for a rehearing of an STC decision should be filed, in writing, within 60 days from the date the STC mailed the notice of revocation.

In a related matter, MCL 207.563(2) provides for automatic termination of an IFEC when the Industrial Facility Tax on real property has not been paid. Please see MCL 207.563 for the procedure to be followed.

30. When does the revocation of an Industrial Facilities Exemption Certificate (IFEC) take effect?

The revocation of an IFEC is effective the December 31st of the year in which the State Tax Commission (STC) revoked the certificate.

31. If a company announces that it will cease operations in the coming year, will the State Tax Commission (STC) approve the revocation of that company's Industrial Facilities Exemption Certificate (IFEC) for the tax day prior to the actual cessation of operations?

No. In a recent case matching these circumstances, the STC ruled that an IFEC could not be revoked as of December 31, 1997 even though it was announced during 1997 that operations would cease as of February, 1998.

32. Is there a limit to the application fee that may be charged by a local unit of government for the cost of processing the application for an Industrial Facilities Exemption Certificate (IFEC)?

Yes. MCL 207.555(3) specifically limits the amount of an exemption certificate application fee that may be charged by a unit of local government to the lesser of the actual cost of processing the application or 2% of total property taxes abated during the term that the exemption certificate is in effect and specifically prohibits local units of government from charging applicants any other fee.

Local units may not require, as a condition precedent to approving an IFEC application, that applicants make or promise to make payments to the local unit. Whether referred to as fees, payments in lieu of taxes, donations, or another name, such payments are

contrary to the legislative intent of PA 198 of 1974. [See STC Bulletin 3 of 1998, at www.michigan.gov/propertytaxexemptions].

33. What is the definition of "Industrial Property"?

MCL 207.552(6) defines "Industrial Property" as:

> land improvements, buildings, structures, and other real property and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is:
>
> a. the engaging in a high-technology activity;
>
> b. operation of a strategic response center;
>
> c. operation of a motorsports entertainment complex;
>
> d. operation of a logistical optimization center;
>
> e. operation of a qualified commercial activity;
>
> f. operation of a major distribution or logistics facility;
>
> g. the manufacture of goods or materials;
>
> h. creation of synthesis of biodiesel fuel;
>
> i. the processing of goods and materials by physical or chemical change[2];
>
> j. property acquired, constructed, altered, or installed due to the passage of Proposal A in 1976;
>
> k. the operation of a hydroelectric dam by a private company other than a public utility;
>
> l. agricultural processing facilities;
>
> m. facilities related to a manufacturing operation under the same ownership, including but not limited to, office, engineering,

[2] "Manufacture of goods or materials" or "processing of goods or materials" means any type of operation that would be conducted by any entity included in the classifications provided by Section 31-33 – Manufacturing, of the North American Industry Classification System – United States (1997), published by the Office of Management and Budget, regardless of whether the entity conducting that operation is included in that manual.

research and development, warehousing, or parts distribution facilities;

n. research and development laboratories of companies other than those companies that manufacture the products developed from their research activities;

o. research development laboratories of a manufacturing company that are related to the products of the company;

p. an electric generating plant that is not owned by a local unit of government, including, but not limited to, an electric generating plant fueled by biomass, if the application is approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007;

q. convention and trade centers in which construction begins not later than December 31, 2010 and is over 250,000 square feet in size or, if located in a county with a population of more than 750,000 and less than 1,100,000 is over 100,000 square feet in size or, if located in a county with a population of more than 26,000 and less than 28,000, is over 30,000 square feet in size;

r. a federal reserve bank operating under 12 USC 341, located in a city with a population of 750,000 or more.

Note: Industrial property may be owned or leased. However, in the case of leased property, the lessee must be liable for payment of ad valorem property taxes and shall furnish proof of the liability.

Industrial property does not include any of the following:

a. land;

b. property of a public utility other than an electric generating plant that is not owned by a local unit of government for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007; or

c. inventory.

34. What is the definition of "obsolescence"?

The assessor must make a recommendation to the local governing unit that 50% or more of the property to be contained in a Plant Rehabilitation District (PRD) is obsolete. "Obsolete industrial property" is defined in MCL 207.552(7) as:

> "... industrial property the condition of which is substantially less than an economically efficient functional condition."

"Economically efficient functional condition" is further defined in MCL 207.552(8) as:

> "... a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors which make the property less desirable and valuable for continued use."

The following are examples of the restoration of obsolete industrial property from MCL 207.553(6):

> Restoration includes major renovation including but not necessarily limited to the improvement of floor loads, correction of deficient or excessive height, new or improved building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, improvements or modifications of machinery and equipment to improve efficiency, decrease operating costs, or to increase productive capacity, and other physical changes as may be required to restore the industrial property to an economically efficient functional condition, and shall include land and building improvements and other tangible personal property incident to the improvements.

When the planned improvements are less than 10% of the true cash value of the industrial property, the improvements are considered delayed maintenance and not considered restoration. (MCL 207.553(6).)

35. What are some of the special provisions that apply to speculative buildings?

MCL 207.553(8) defines a "speculative building" as:

> "Speculative Building means a new building that meets all of the following criteria and the machinery, equipment, furniture, and fixtures 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."

Subsection 8(b) requires that a speculative building be constructed before a specific user is identified. This law does not require that a building be approved by the local governmental unit before identification of the specific user.

The following are additional requirements specific to speculative buildings:

a. that the speculative building was constructed less than 9 years before the filing of the exemption certificate.

b. that the speculative building has not been occupied since the completion of construction.

Important note: It is sometimes advantageous to divide a speculative building into several smaller units rather than having the entire building as one unit. (*e.g.*, if a 50,000 square foot building is designed to be occupied by 5 separate users, but it is only approved as a single speculative building, after the first user takes occupancy, the building may no longer qualify as speculative for future occupants because it may no longer qualify under paragraph b, above.)

36. Where can I find information regarding the Industrial Facilities Exemption Certificate (IFEC) application process?

Information regarding the application process can be found on the Department of Treasury website at: www.michigan.gov/propertytaxexemptions.

37. Where can I obtain copies of previously issued Industrial Facilities Exemption Certificates?

Copies of certificates acted upon by the State Tax Commission 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.

38. Where can I check on the status of an Industrial Facilities Exemption application?

The status of an application is available through a query tool on the Department of Treasury website at: www.michigan.gov/propertytaxexemptions . Choose the Industrial Facilities Exemption (IFE) program. Then select the Industrial Facilities Application/Certificate Search link.

AGENDA NOTE

New Business: Item # 7

MEETING DATE: March 12,2018

PERSON PLACING ITEM ON AGENDA: Councilmember Kurtzweil

AGENDA TOPIC: Search for Interim City Manager

EXPLANATION OF TOPIC:

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Examples of other community ads for Interim City Manager search

POSSIBLE COURSES OF ACTION: Discussion and action

RECOMMENDATION:

SUGGESTED MOTION: Motion by _____, supported by _____ to

Holland
MICHIGAN

City Manager

With the retirement of longtime City Manager, Soren Wolff, Holland is now accepting applications for the position of City Manager.

The City Council has established a search committee and has retained the services of the Mercer Group to assist in the hiring process. An advertisement of the position and link to a full position profile can be found here.

If you are interested in applying for this position, please send a resume; cover letter that demonstrates how your qualifications, interests, and experience coincide with this position; detailed salary history; and, if desired, a request for confidentiality pursuant to MCL 15.268(h) by November 14, 2011, to Phillip Robertson, The Mercer Group, Inc., MercerNC@aol.com (electronic submission preferred) or mail to 3443 Hwy. 39 North, Louisburg, NC 27549. The City of Holland is an equal opportunity employer.

Position

City Manager

Reference #

Status

Closed - no longer accepting applications

City Manager

Contact Us

City E-News

Holland Annual Report

Weekly Report

West Michigan Regional Airport Authority

Department Contact Information

City Manager's Office
Located on the 2nd Floor of Holland City Hall
270 South River Avenue
Holland, Michigan 49423

Click here for full contact info

Department Events

Allegan County & Ottawa County Monthly Constituent Meeting
Mon, Mar 5th 5:30pm
City Hall, Council Chambers, 1st Floor

Allegan County & Ottawa County Monthly Constituent Meeting
Mon, Apr 2nd 5:30pm
City Hall, Council Chambers, 1st Floor

Nine executive search firms make proposals to help find the next Muskegon city manager

By Dave Alexander | dalexan1@mlive.com
Follow on Twitter
on April 06, 2013 at 2:31 PM, updated April 06, 2013 at 2:32 PM

MUSKEGON, MI – Nobody knows where the next Muskegon city manager will come from, but companies wanting to help in that executive search come from Texas, Florida and Georgia.

The city of Muskegon has received nine proposals from executive search consultants looking to help the Muskegon City Commission select a new city manager after City Manager Bryon Mazade retires Oct. 1.

The proposals – in response to **a city "request for proposals"** – ranged in price from $12,500 to $24,000. All of the companies responding were from outside of Michigan, except for the proposal from the Michigan Municipal League, which offered one of the lowest prices.

However, several of the companies have extensive experience with Michigan municipalities as they have conducted the city manager searches for Kalamazoo, Grand Rapids, Holland and other Michigan cities.

The Muskegon City Commission has **the city manager search proposals** on its Monday work session agenda. Commissioners meet at 5:30 p.m. at Muskegon City Hall, 933 Terrace.

Here are the proposals the commissioners will begin to consider:

• Strategic Government Resources, Keller, Texas. The company has 300 clients in 40 states but no references from Michigan. It's fee is not to exceed $24,000.

• Bob Murray & Associates, Tallahassee, Fla. Murray did the search for the Kalamazoo city manager and has filled 800 public sector positions, including 200 city managers. Professional fees and expenses would be $24,000.

• Colin Baezinger & Associates, Wellington, Fla. The company has conducted more than 120 city and county manager searches but all of its references are outside of Michigan. The fixed fee would be $21,500.

• Slavin Management Consultants, Norcross, Ga. Its clients include the cities of Kalamazoo, Grand Rapids, Ann Arbor and Traverse City. The company has placed more than 750 local government executives. The fee is $13,865.

• Michigan Municipal League, Lansing. The municipal government nonprofit association's clients include the cities of Norton Shores and Muskegon Heights among 125 across the state. The project manager would be Bill Baldridge, a former city manager living in North Muskegon. The cost would be $12,500 plus expenses for an overall estimated cost of less than $15,000.

• Anchor HR Solutions, Fredericksburg, Va. This company lists its clients as the New York City Housing Authority to the federal Library of Congress and it has done corporate work for companies like Nike, MetLife and JPMorganChase. The fee would not exceed $18,500.

• Voorhees Associates LLC, Deerfield, Ill. The company currently has 17 searches underway and has filled 180 positions since 2009. All of its references were for city manager searches in the Chicago suburbs. The fee would be $16,400.

• The Waters Consulting Group, Dallas. This company conducted the most recent Grand Rapids city manager search and has had 200 placements made throughout the country. The total cost would be $21,500.

• The Mercer Group, Atlanta and Raleigh, N.C. This company has done extensive work in Michigan including the recent city manager searches in Holland and Troy along with past work in Jackson and Petoskey. It has completed more than 250 executive searches. The fee would be $19,900.

Commissioners at the Monday work session are expected to set the direction for hiring a company to help them find a new city manager.

Mazade, 54, announced earlier this year **that he is taking an early retirement**. He has been the city manager for nearly 20 years and leaves a city with financial and political stability.

Email: **dalexan1@mlive.com**

Facebook: Dave Alexander

MARCH 12, 2018

BUDGET DISCUSSION ITEM

CHARTER TOWNSHIP OF HIGHLAND

205 North John Street • Highland, Michigan 48357 • (248) 887-3791

Resolution #12-17:

To Adopt a Fund Balance Policy

At a regular meeting of the Charter Township of Highland Board of Trustees held on the 10th day of October, 2012;

Present: Patricia M. Pilchowski, Mary L. McDonell, Judith A. Kiley, Mary Pat Chynoweth, Raymond Polidori, Barry Sherman, Russ Tierney

Absent: None

The following resolution was offered by Mr. Polidori and supported by Mrs. Kiley:

Whereas, the Charter Township of Highland believes that sound financial management principles require sufficient funds be retained by the Township to provide a stable financial base at all times, and

Whereas, In order to do so, the Township needs to maintain a fund balance sufficient to fund all cash flows of the Township, to provide for financial reserves for unanticipated one-time expenditures, revenue shortfalls and/or emergency needs, and

Whereas, the Township Board needs to identify the size and composition of the Township's desired fund balance for governmental funds and to identify certain requirements for classifying fund balance in accordance with Governmental Accounting Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*,

Therefore be it resolved that Highland Township's Fund balance will be displayed in the following classifications:

Non-spendable fund balance—amounts that are not in a spendable form (such as inventory) or are required to be maintained intact

Restricted fund balance—amounts constrained to specific purposes

Unrestricted:

Committed fund balance—amounts constrained to specific purposes by the board, as recommended by the Supervisor; to be reported as committed; amounts cannot be used for any other purpose unless the board takes the same highest-level action to remove or change the constrain

Assigned fund balance—amounts the board *intends* to use for a specific purpose.

Unassigned fund balance—amounts that are available for any purpose (these amounts are reported only in the general fund),

And let it be Further resolved that the goal of the board shall be to maintain a minimum unassigned fund balance of no less than 40% of General Fund expenditures. For purposes of this calculation, "expenditure" will be the annual budgeted expenditures amount less non-recurring capital expenditures. If unassigned fund balance levels fall below 40% of expenditures, the General Fund budget for the following year will be adjusted to restore fund balance to the 40% level. If unassigned fund balance approaches a level that greatly exceeds 60% of expenditures, the Township Board will consider using unassigned fund balance for the following purposes: funding OPEB Trust, pay down future debt (drains/bonds), transfer funds to Capital Projects fund for future Capital Improvements and other future obligations of the Township. Fund balance levels will be analyzed each fiscal year after the financial statement audit.

RESOLUTION DECLARED ADOPTED

Patricia M. Pilchowski, Supervisor

Mary L. McDonell, MMC, Township Clerk

I hereby certify that the above is a true and correct copy of a resolution adopted by the Charter Township of Highland Board of Trustees of the County of Oakland, State of Michigan on the 10th day of October, 2012.

Mary L. McDonell, MMC, Township Clerk

Fund Balance

4.10 Fund Balance

The township board believes that sound financial management principles require that sufficient funds be retained by the township to provide a stable financial base at all times. In order to do so, the township needs to maintain a fund balance sufficient to fund all cash flows of the township, to provide for financial reserves for unanticipated one-time expenditures, revenue shortfalls, and/or emergency needs.

The purpose of this policy is to identify the size and composition of the township's desired fund balance for governmental funds and to identify certain requirements for classifying fund balance in accordance with Governmental Accounting Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*.

1. Classifications The following individual components shall constitute the fund balance for all of the township's governmental funds:

Classification		Definition	Examples
Non-spendable		Amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact.	• Inventories • Prepaid items • Long-term receivables
Restricted		Fund balance should be reported as restricted when constraints placed on the use of resources are either: a. Externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or b. Imposed by law through constitutional provisions or enabling legislation.	• Restricted by state statute • Unspent bond proceeds • Grants earned but not spent • Taxes dedicated to a specific purpose • Revenues restricted by enabling legislation.
Unrestricted	**Committed**	Used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority. To be classified as "committed," formal action must be taken by the township board prior to _____ of that fiscal year.	• Amounts the township board sets aside by resolution.
	Assigned	Amounts that are constrained by the government's intent to be used for specific purposes, but are neither restricted nor committed. These amounts can be "assigned" by _____.	• Township board delegates the authority to assign fund balance to the _____ • Future roads, non-motorized transportation are examples.
	Unassigned	Unassigned fund balance is the residual classification for the general fund. This is fund balance that has not been reported in any other classification. The general fund is the only fund that can report a positive unassigned fund balance. Other governmental funds would report deficit fund balances as unassigned.	

Committing Fund Balance In order to commit fund balance, the township board, as the highest level of decision-making authority, must pass a resolution to commitment funds for a specific purpose. These funds must be fully expended for their committed purpose. To make committed funds uncommitted, a new resolution must be passed by the board. Action must be taken before the last day of the fiscal year to commit funds for that year.

Assigning Fund Balance In order to assign fund balance, the township board designates the *(indicate responsible party)* as the authority to assign fund balance.

2. Levels of Fund Balance The township will establish and maintain levels of fund balance for the general fund as follows:

> The goal of the township board shall be to maintain a minimum unassigned fund balance of no less than __% of general fund expenditures. For purposes of this calculation, "expenditures" will be the annual budgeted expenditures amount less non-recurring capital expenditures. If unassigned fund balance levels fall below __% of expenditures, the general fund budget for the following year will be adjusted to restore fund balance to the __% level.
>
> If unassigned fund balance approaches a level that greatly exceeds __% of expenditures, the township board will consider using unassigned fund balance for the following purposes: pay down future debt (drains/bonds), transfer funds to capital projects fund for future capital improvements, and other future obligations of the township.
>
> Fund balance levels will be analyzed each fiscal year after the financial statement audit (typically in _____ *(indicate month)*).

Note

Townships typically accumulate fund balance or surpluses through careful controls over spending and conservative approaches to revenue. Many townships accumulate resources to pay for capital projects, and to provide a contingency fund for unplanned expenditures or revenue shortfalls. Townships should consider adopting a more formalized approach to maintaining fund balance reserves. A township board may want to consult with its auditor or other financial advisor to develop a target fund balance for the township's specific circumstances and needs.

Starting with 2010 fiscal years, the Governmental Accounting Standards Board (GASB) Statement 54 created five new classifications for fund balance reporting, and clarified the definitions of existing fund types. According to the GASB Fact Sheet about Fund Balance Reporting and Governmental Fund Type Definitions:

"Fund balance will be displayed in the following classifications depicting the relative strength of the spending constraints placed on the purposes for which resources can be used:

- *Nonspendable fund balance—amounts that are not in a spendable form (such as inventory) or are required to be maintained intact (such as the corpus of an endowment fund)*
- *Restricted fund balance—amounts constrained to specific purposes by their providers (such as grantors, bondholders, and higher levels of government), through constitutional provisions, or by enabling legislation*
- *Committed fund balance—amounts constrained to specific purposes by a government itself, using its highest level of decision-making authority; to be reported as committed, amounts cannot be used for any other purpose unless the government takes the same highest-level action to remove or change the constraint*

- *Assigned fund balance—amounts a government intends to use for a specific purpose; intent can be expressed by the governing body or by an official or body to which the governing body delegates the authority*
- *Unassigned fund balance—amounts that are available for any purpose; these amounts are reported only in the general fund."*

In establishing a policy governing the level of unassigned fund balance in the general fund, the Government Finance Officers Association recommends that a township consider a variety of factors, including:

- *The predictability of its revenues and the volatility of its expenditures*
- *Its perceived exposure to significant one-time outlays (such as disasters, immediate capital needs, state budget cuts, etc.)*
- *The potential drain upon general fund resources from other funds, and the availability of resources in other funds*
- *Liquidity*
- *Commitments and assignments*

Packet

Info Only

Lloyd Collins

From: Timothy Wilhelm <twilhelm@jrsjlaw.com>
Sent: Wednesday, March 07, 2018 4:54 PM
To: Lloyd Collins
Subject: South Lyon - follow up on proper public expenditure issue from 2/26 meeting
Attachments: DOC030718.pdf

Chief Collins

During the February 26, 2018 Council meeting a question arose regarding the propriety of city expenditures, specifically whether it is proper for the city to spend funds on park improvement or a memorial plaque located and maintained in a city park. I have attached Section 4 – Finance, Chapter 23: Limits on Municipal Expenditures from the Handbook for Municipal Officials, published by MML, which provides basic information regarding the topic. In short, expenditures of city funds for park purposes, including memorials or similar improvements (such as Paul Baker Park), would be proper and allowed. The circumstances discussed on February 26th do not involve a private purpose or benefit and such expenditures all relate to improvements to a city park.

If you or Council would like further information on this issue, please let me know.

Timothy S. Wilhelm

J|R|S|J

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Section 4: Finance

Chapter 23: Limits of Municipal Expenditures

Municipalities are frequently requested to make donations to various worthy private organizations. Such organizations include chambers of commerce; hospitals; museums; veterans' organizations; community funds; Boy Scouts, Red Cross; and other educational, promotional, or benevolent associations. Frequently, it is difficult for the legislative body of a municipality to refuse such requests. However, it appears clear from Michigan law that such donations are questionable expenditures of public funds.

Generally, a municipality's power to spend money is derived from the state through the Michigan Constitution and state laws. In addition to specific grants of power, cities and villages with home rule authority are also able to rely on the applicable provisions in the Constitution and statutes for the power to spend on municipal concerns. Regardless of the authority, it is generally held, however, that municipalities have the power to expend funds only for a public purpose.

One test for determining a public purpose is whether the expenditure confers a direct benefit of reasonably general character to a significant part of the public. It should be noted that the public purpose test has also been limited to the provision of services for which municipalities exist and the powers they have authority to exercise. With respect to the question raised, neither the Michigan Constitution nor state law grants to municipalities the power to spend public money on employee parties, gifts, etc. Nor can a good argument be made that the expenditures are for a public purpose. Absent a grant of spending authority, and no clear public purpose defined, the expenditure is most likely illegal. Simply put, a municipality cannot give public funds away.

What Is a Public Purpose?

The Michigan Supreme Court has defined the objective of a public purpose:

> Generally a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within the municipal corporation, the sovereign powers of which are used to promote such public purpose....The right of the public to receive and enjoy the benefit of the use determines whether the use is public or private. (*Hays v City of Kalamazoo,* 316 Mich 443, 453-454 (1947))

The following questions may be helpful in determining whether an expenditure is appropriate:

1. Is the purpose specifically granted by the Michigan Constitution, by statute, or by court decision?
2. Is the expenditure for a public purpose?
3. Is the municipality contracting for services that the municipality is legally authorized to provide?
4. Is the operation or service under the direct control of the municipality?

If you can answer "yes" to these questions, the expenditure is most likely appropriate.

Michigan Constitution of 1963

The following provisions of the Michigan Constitution are the basis for municipal expenditures:

> Article 7, Sec. 26.
>
> Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

> Article 9, Sec. 18.
>
> The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution. (Note: This applies to all political subdivisions of the state. *Black Marsh Drainage District v Rowe,* 350 Mich 470 (1958)).

Private Purpose Decisions

Expending public funds for a private purpose under Michigan law is illegal. For over a century, the Michigan Supreme Court has considered the limitations on expending public funds and has been consistent in its rulings. Most involve the relationship of a municipality with private businesses.

1. A contract in which the village of Fenton proposed to expend $1200 to drain a marsh, improve a highway, and construct a dock in order to induce a certain firm to establish a stavemill in the village, was held invalid. *Clee v Sanders,* 74 Mich 692 (1889).
2. Money from a bond issue could not be spent if it appeared that the purpose of the bond issue was actually to provide a fund for paying bonuses to industry for locating in the city. *Bates v Hastings,* 145 Mich 574 (1906).
3. A city-owned building, which was occupied by a manufacturing company, burned down. The city agreed to pay the insurance proceeds to the manufacturer if it would rebuild the building and occupy it for a term of years. The rebuilding, however, was not done on the city-owned property. It was held that payment of the $5,000, even though not raised by tax money, was unlawful. *McManus v Petoskey,* 164 Mich 390 (1911).

Public Purpose—but Outside Municipal Control

Most of the above cases involve a purpose which is worthy, but private in nature. There is another line of cases that involves an additional concern. If the purpose for which the funds are expended is public in nature, *but the operation is not under the control of the city or village which is making the contribution,* it may nonetheless still be an illegal expenditure.

In *Detroit Museum of Art v Engel,* 187 Mich 432 (1915) the Supreme Court ruled that Detroit could not pay the salary of the museum director, even though the city had title to the real estate on which the museum was located and had minority representation on its board of directors. One sentence of the opinion which has been much quoted is:

> The object and purpose of relator is a public purpose in the sense that it is being conducted for the public *benefit,* but it is not a public purpose within the meaning of our taxing laws, unless it is managed and controlled by the public.

In more recent cases the *Art Museum* doctrine has been applied on a limited basis. *Hays v City of Kalamazoo,* 316 Mich 443 (1947) involved the validity of the payment of membership fees by Kalamazoo to the Michigan Municipal League. The court distinguished the *Art Museum* case by saying that, contrary to the payment of dues to the League, the transaction with the Museum did not "involve the right of a municipality to avail itself of, and to pay for, information and services of benefit to the city in its governmental capacity."

In 1957, the Michigan Supreme Court held that Detroit could properly transfer to Wayne County certain city park land to facilitate the construction of a home for neglected and abandoned children. In sustaining the right of the city to assist the project in the manner indicated, the court noted that two-thirds of the population of the county resided in the city of Detroit, and that the proposed institution would provide care for children from within the city. The court held that the city was aiding in the accomplishment of a purpose that it might itself have accomplished directly under its charter. *Brozowski v City of Detroit,* 351 Mich 10 (1957).

Opinions of the Attorney General
There are numerous opinions by the Attorney General regarding municipal expenditures. The following are offered as examples.

- Money raised under the special tax for advertising can be used to advertise the city's advantage for factory location, but not to buy land to be given for a factory, to build a factory for sale or rent, or to give a bonus for locating a factory in the city (1927-28 AGO p. 672).
- In a park owned by the American Legion which had installed a lighting system and held ball games open to the public, it would be unlawful for a village to assume the cost of the electricity used by the park up to $100 per year, even though the majority of the village taxpayers had signed a petition requesting such payment (1935-36 AGO p. 5).

Expansion of Public Purpose
The Attorney General has said that a county may not use federal revenue sharing funds to make a grant to a private nonprofit hospital (1973 AGO No. 4851). The Attorney General concluded that since it could not expend its own funds as contemplated, it could not disburse federal funds for that purpose. The Attorney General suggested that the county might obtain social service and medical service needs by contract. In a later opinion the Attorney General concluded a county could not expend federal revenue sharing funds for loans to private businesses unless the federal statute expressly authorized such expenditure (1987 AGO No. 6427).

Considerable use has been made of the authority to contract with private nonprofit agencies to perform services on behalf of a city or village. 1977 AGO No. 5212 specifically recognized the validity of this procedure. The state legislature subsequently amended section 3 (j) of the Home Rule City Act as follows:

> In providing for the public peace, health, and safety, a city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, township, *or* another city for services considered necessary by the municipal body vested with legislative power. Public peace, health, and safety services may include, but shall not be limited to, the operation of child guidance and community mental health clinics, the prevention, counseling, and treatment of developmental disabilities, the prevention of drug abuse, and the counseling and treatment of drug abusers. 1978 PA 241.

In addition, there have been other expansions of a municipality's spending power with respect to a downtown development authority, MCL 125.1651 et seq. (1975 PA 195); public economic development corporation, MCL 125.1601 et seq. (1974 PA 338); empowerment zone development corporation, MCL 125.2561 et seq. (1995 PA 75); enterprise community development corporation, MCL 125.2601 et seq. (1995 PA 123); and brownfield redevelopment financing, MCL 125.2651 et seq. (1996 PA 381). Each law allows money and resources to be used for economic growth under the control or oversight of the municipality's governing body.

Specific Authorizations Granted by Law
As a public decision maker, you have a legal duty to make sound financial decisions. Whenever a question arises that does not easily match statutory law, or meet the public purpose analysis, the expenditure is likely improper. Remember, if the question cannot be resolved, your village attorney is the best resource for legal advice. You may also wish to consult the state of Michigan Department of Treasury website (treas.state.mi.us/localgov/Audit/lawfulex.htm) for guidelines.

Statutory Authorizations for Expenditure
Listed below are several specific statutory authorizations for public expenditures:

- Cultural activities (Home Rule City Act). MCL 117.4k.
- Water supply authority. MCL 121.2.

- Public utility. MCL 123.391.
- Exhibition area. MCL 123.651.
- Memorial Day/Independence Day/Centennial celebrations. MCL 123.851.
- Band. MCL 123.861.
- Publicity/Advertising. MCL 123.881.
- Principal shopping district. MCL125.981.

CONSERVE & PROTECT OUR WATERWAYS

"Community Service for Young and Young at Heart"

14th Annual Creek Clean Up

(Removing trash and debris from area creeks and streams). Plan on mud and water.

Date: April 14, 2018 **Time:** 9AM - 1PM

Place: Michigan Seamless Tube and Pipe Truck Lot, 400 McMunn Street, South Lyon, Michigan

"It May be Cold and the Water Will be High"

Please Bring: rubber boots, gloves, rakes and shovels

Do Not Forget: warm clothing, hats, and sunscreen

Also Needed: pick-up trucks and trailers to haul trash to dumpster (for city trash only)

Sponsored by: Michigan Seamless Tube and Pipe, South Lyon Area Boy Scouts, and the City of South Lyon Department of Public Work's Storm Water Management Planning Program

Contact:

Larry
Ledbetter