

**CHARTER TOWNSHIP OF GAINES
KENT COUNTY, MICHIGAN**

P.A. 198 PROPERTY TAX ABATEMENT POLICIES

The following policies shall apply to the Township's consideration of requests to establish industrial development and plant rehabilitation district and approve applications for industrial facilities exemption certificates pursuant to Act 198 of the Public Acts in 1974, as amended ("Act 198"), MCL 207.551 et seq.:

1. **Commencement of Process; Filing of Application; Definitions.** The applicant for an industrial facilities exemption certificate (an "IFT Certificate") shall file a complete Application For Industrial Facilities Exemption Certificate (Michigan Department of Treasury Form 1012, as amended) (an "Application") in conjunction with a written request to establish an industrial development district or plant rehabilitation district (a "District"). This Application must be accompanied by all applicable attachments (including a legal description and survey of the boundaries of the requested District) and supporting information and payment of the Fee Deposit required by Paragraph 10. The Township will not process or consider an Applicant's request to establish a District until the Township has received a properly completed Application (including all applicable attachments and exhibits) and Fee Deposit.
2. **Site Plan Approval before Considering Establishment of a District.** The Township shall not consider a request to establish a District before the Township Planning Commission or Site Plan Review Committee, grants any required site plan approval for the project.
3. **Establishment and Boundary of a District.** Under the provisions of Public Act 198, a District must be established prior to the Application for an IFT Certificate. The District must be a legal description of the parcel of land on which the abatement is to take place. If a District currently exists on the property, the applicant may proceed directly to the Application of an IFT Certificate.
4. **Limit on Term of District.** There will be no limit on the term of a District. However, the Township reserves the right to revoke a District at any time. IFT Certificates approved by the State Tax Commission for facilities located in the District shall continue in full force and effect for the approved term of the IFT Certificate. In the event an applicant applies for an IFT Certificate for additional real and/or personal property on the site of a District whose term of existence has terminated, the consideration of the Application for the new IFT Certificate is subject to the establishment of a new District in accordance with Act 198.
5. **Maximum Term of Tax Abatement.** The maximum term of an IFT Certificate to be approved by the Township shall be twelve (12) years for real property and six (6) years for personal property. The actual term of an IFT Certificate will be based on the following table:

As adopted on 4/13/98
Amended 6/12/00
Amended 7/14/08

Investment Amount	Real Property Term	Personal Property Term
\$100,000 - \$249,999	4 years	2 years
\$250,000 - \$499,999	6 years	3 years
\$500,000 - \$749,999	8 years	4 years
\$750,000 - \$999,999	10 years	5 years
\$1,000,000 +	12 years	6 years

6. **Minimum Amount of Investment.** The Township will not create an industrial development or plant rehabilitation district, nor approve an application for tax abatement, unless the minimum amount of investment for which abatement is requested is \$100,000.
7. **No Extension of Term.** The Township will not approve an Application filed with the Township pursuant to PA Act 198 for the extension, renewal or reissuance of an IFT Certificate previously approved by the Township Board.
8. **No Speculative Buildings.** The Township will not establish a District for a speculative building (as defined in Act 198).
9. **Transfer of Certificates.** An IFT Certificate may be transferred and assigned by the holder of the IFT Certificate to a new owner or lessee of the facility but only with the approval of the Township and the State Tax Commission after application by the new owner or lessee, and notice and hearing in the same manner as provided in this policy and Act 198.

An IFT Certificate may be transferred from another jurisdiction into the Township, subject to approval by the legislative body of that jurisdiction and with the approval of the Township and the State Tax Commission after application by the new owner or lessee, and notice and hearing in the same manner as provided in this policy and Act 198.

The Township Board reserves the right to decrease or increase the existing term length involved in the transfer of an IFT Certificate.

10. **Application Fee.** The Township shall charge an applicant an application fee to process an Application. The application fee shall not exceed the **lesser** of (a) the actual cost incurred by the Township to process the Application (including, for example, legal, publication, mailing and similar costs), (b) two percent (2%) of the total property taxes abated under Act 198 for the term of years that the IFT Certificate is in effect or (c) \$2,000. The Township will not file the Application with the State Tax Commission until full payment of the application fee, as billed, is received. If an Application is subsequently denied or withdrawn, the Township shall be entitled to payment of its actual costs incurred up to such denial or withdrawal, subject to the above stated limits.
11. **Fee Affidavit.** There shall be attached to each Application, approved by the Township and filed with the State Tax Commission, an affidavit, signed by the Township Assessor and by the applicant, which states that no payment of any kind in excess of the fee allowed by Section 5(3)

*As adopted on 4/13/98
Amended 6/12/00
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of Act 198 has been made or promised in exchange for favorable consideration of the Application.

12. **Agreement.** In accordance with Section 22 of Act 198, the approval of an Application shall be subject to the execution of a Tax Abatement Agreement between the Township and the operator of the facility outlining conditions/recourse to be upheld during the term of the IFT Certificate. A sample Tax Abatement Agreement is attached hereto as Attachment I.
13. **Revocation of Certificate.** The Township reserves the right to revoke an IFT Certificate in accordance with Section 15 of Act 198, the terms and conditions of the Tax Abatement Agreement or upon the failure of the Applicant/Owner/Occupant of the facility to pay ad valorem and/or industrial facilities taxes prior to the same becoming delinquent in accordance with applicable law.
14. **Variations.** The Township Board reserves the right to vary from these policies. Such variations shall only be considered by the Township Board on a very limited basis where the nature of the project in the sole judgment of the Township Board (as determined by the Township Board in the exercise of its reasonable discretion) is so significant that it presents a unique opportunity for the Township and its residents.
15. **Checklist of Procedures.** The Township shall develop a checklist of procedures to allocate the responsibilities for filing and processing an Application between the Township and the Applicant. It is intended that a copy of these policies and the checklist will be provided to each potential Applicant at the time the Applicant first contacts the Township to discuss a potential Application.
16. **Inconsistencies.** In the event of an inconsistency between the terms of these policies and Act 198, the provisions of Act 198 shall prevail.
17. **Schedule of Hearings.** The Township Supervisor is hereby authorized to schedule the required public hearings for the creation of the industrial development district and consideration of the application for tax abatement, and to arrange for giving notice of these hearings as required by law. In his discretion, the Township Supervisor may instead request that the Township Board approve the time and date of these public hearings.

ATTACHMENT I

_____ [SAMPLE]

TAX ABATEMENT AGREEMENT

As required by Section 22 of Act 198 of the Public Act of Michigan of 1974, as amended ("Act 198"), **ABC Company ("ABC")**, hereby enters into the following agreement with the Charter Township of Gaines ("the Township"), for the purpose of inducing the Township to grant an industrial facilities exemption certificate ("IFEC") for new buildings and equipment described in an application that has been filed with the Township (the "Facility"), pursuant to Act 198:

1. **ABC** hereby represents that it will, with respect to the Facility, subject to allowance for depreciation and decrease in market value during the entire period of the tax abatement approved by the Township:
 - a. invest (or lease) and maintain not less than **\$(Insert Amount of Real Property itemized in Application)** in land improvements and buildings in the Township; provided, however, that such amount shall be increased to an amount equal to the actual value of land improvements and building, if greater than **\$(Insert Amount of Real Property itemized in Application)**; and
 - b. invest (or lease) and maintain not less than **\$(Insert Amount of Personal Property itemized in Application)** in new equipment and furniture at the Facility; provided, however, that such amount shall be increased to an amount equal to the actual value of new equipment and furniture, if greater than **\$(Insert Amount of Personal Property itemized in Application)**. (the land improvements and building in 1(a) and the equipment and furniture in 1(b) shall be referred to as the "Property")
2. **ABC** shall provide the Township with a written appraisal of the Property not later than 180 days following completion of the installation of the Property. **ABC** agrees that said appraisal shall be admissible as evidence, and **ABC** shall not contest such admissibility in any proceeding before the Township Board of Review, the Michigan Tax Tribunal, the State Tax Commission, or in any other proceeding intended to review and/or amend the valuation of the Property for tax purposes.
3. **ABC** further represents that it will, commencing not later than 2 years after the Facility is completed, provide and maintain employment for the equivalent of **[Insert total of existing and proposed employees from Application]** employees working at least an average of 35 hours per week.
4. When hiring, **ABC** shall make a good faith effort to hire employees from the Township and the immediately surrounding area, including advertising in a newspaper of general circulation within the Township and the surrounding area. However, this section shall not require **ABC** to take any action in

violation of applicable employment-related laws and **ABC** retains the right to hire the most qualified employees as permitted under applicable law without regard to geographical residence.

5. **ABC** commits to operate the Facility for which abatement has been requested for the entire period of the tax abatement. If, in the sole judgment of the Township, **ABC** has taken action which constitutes relocation of more than an insubstantial part of its Facility to another jurisdiction, or closes more than an insubstantial part of the Facility, prior to expiration of the tax abatement, then **ABC** shall reimburse all affected taxing units a portion of the difference between the taxes which were paid, and those which would have been paid but for the abatement, in accordance with the following schedule:

[12 year abatement] – REAL PROPERTY

<u>Year of Closing or Relocation</u>	<u>Refund %</u>
0-3	100%
4-5	75%
6-7	50%
8-9	25%
10-12	0%

[6 year abatement] – PERSONAL PROPERTY

<u>Year of Closing or Relocation</u>	<u>Refund %</u>
0-2	100%
3	75%
4	50%
5-6	0%

6. If **ABC** does not repay the Township upon demand, the Township may collect the required abatement in the manner provided by Act 198 for the collection of delinquent industrial facilities taxes or in any other manner permitted by law.

7. If the Facility fails to meet the expectations, or to comply with the agreements set forth in paragraph 1 through 5 above, then the Township may, in its sole discretion, terminate or reduce the term of the industrial facilities exemption certificate granted to **ABC**.

8. The Township shall provide at least 15 days written notice to **ABC** if the Township intends to take action to enforce this Agreement, and shall permit **ABC** an opportunity to be heard concerning the matter at a special or regular meeting of the Township Board. The Township shall not require repayment, or revoke or reduce the term of the certificate, unless investment or employment are less than the commitments made in paragraphs 1, 2 or 3 for a continuous period of more than 180 days.

9. Not later than 90 days following completion of the installation of the Property, **ABC** shall provide to the Township certification of all amounts spent on the Property in the Facility. **ABC** shall also, at that time, certify to the Township the number of full-time (over 35 hours per week) employees presently working at the Facility.

10. On October 15, **[Insert first calendar year IFEC is expected to be in effect]** and annually on each October 15 thereafter as long as the IFEC remains in effect, **ABC** shall certify to the Township the number of full-time (over 35 hours per week) employees then employed in the Facility. In addition, **ABC** shall provide such other information as is reasonably requested by the Township to verify continued compliance with this Agreement.

11. The remedies in this Agreement are in addition to the remedies provided by Act 198. This Agreement contains the entire agreement between the parties with regard to its subject matter and may be amended only in writing signed on behalf of **ABC** and approved by resolution of the Township Board.

12. **ABC** acknowledges receipt of and agrees to be bound by the terms of the Township's P.A. 198 Property Tax Abatement Policies

13. In addition to the preceding statements, **ABC** and the Township do swear and affirm by the signatures below that "no payment of any kind in excess of the fee allowed by PA Act 198 of 1974, as amended by Public Act 323 of 1996, has been made or promised in exchange for favorable consideration of an exemption certificate application."

ABC COMPANY

Dated: _____, 2__

by (print name): _____

Its _____

Signature: _____

CHARTER TOWNSHIP OF GAINES

Dated: _____, 2__

by (print name): _____

Its _____

Signature: _____