

**CHARTER TOWNSHIP OF GAINES**  
**KENT COUNTY, MICHIGAN**  
**P.A. 198 PROPERTY TAX ABATEMENT POLICIES**  
**As Amended September 12, 2022**

The following policies shall apply to the Township's consideration of requests to establish industrial development or 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 "IFE 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 11. 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. Proof of Extraordinary Costs.** An applicant shall demonstrate extraordinary costs beyond typical site development costs to qualify for an abatement. Extraordinary costs must be demonstrated via estimates or invoices provided by a third party.

Costs that may qualify as extraordinary can include environmental response and due care activities, removal and disposal of abandoned underground storage tanks, building and site demolition of existing improvements or removal of unusable manufactured debris, and lead, asbestos or mold abatement as defined under the Brownfield Redevelopment Act (Act 381 of 1996, as amended). The Board may consider other cost categories as "extraordinary" if documented with cost estimates by a developer and the costs are not related to typical construction activities that would normally be incurred. Extraordinary costs may only be considered that have not been or will not be abated utilizing other incentives programs offered by other State or Federal agencies.

**5. 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. IFE 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 IFE

Certificate. In the event an applicant applies for an IFE 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 IFE Certificate is subject to the establishment of a new District in accordance with Act 198.

**6. 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:

| Investment Amount | Real Property Term | Personal Property Term |
|-------------------|--------------------|------------------------|
| \$1,000,000+      | 4 years            | 2 years                |
| \$3,000,000+      | 6 years            | 3 years                |
| \$6,000,000+      | 8 years            | 4 years                |
| \$9,000,000+      | 10 years           | 5 years                |
| \$11,000,000+     | 12 years           | 6 years                |

**7. 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 \$1,000,000.

**8. 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 IFE Certificate previously approved by the Township Board.

**9. No Speculative Buildings.** The Township will not establish a District for a speculative building (as defined in Act 198).

**10. Transfer of Certificates.** An IFE Certificate may be transferred and assigned by the holder of the IFE 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 IFE 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 IFE Certificate.

**11. Application Fee.** The Township shall charge 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 IFE Certificate is in effect. 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.

**12. 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) of Act 198 has been made or promised in exchange for favorable consideration of the application.

**13. 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 IFE Certificate. A sample Tax Abatement Agreement is attached hereto as Attachment I.

**14. Revocation of Certificate.** The Township reserves the right to revoke an IFE 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.

**15. Variances.** The Township Board reserves the right to vary from these policies. Such variances 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 or the Township and its residents.

**16. 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.

**17. Inconsistencies.** In the event of an inconsistency between the terms of these policies and Act 198, the provisions of Act 198 shall prevail.

**18. 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**

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

**[6 year abatement] - PERSONAL PROPERTY**

| Year of Closing<br>or Relocation | Refund % 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: \_\_\_\_\_, 201\_ by (print name): \_\_\_\_\_

Its \_\_\_\_\_

Signature: \_\_\_\_\_

**CHARTER TOWNSHIP OF GAINES**

Dated: \_\_\_\_\_, 201\_ by (print name): \_\_\_\_\_

Its \_\_\_\_\_

Signature: \_\_\_\_\_

### **PA 198 Requests - Process and Checklist**

- Step 1- Applicant shall file with the Township on Company Letterhead a request for the establishment of an Industrial Development District (IDD) or Plant Rehabilitation District. The request must include a legal description of the property to be included in the IDD and a survey.
- Step 2 - Applicant shall file with the Township the State Application (Michigan Department of Treasury Form 1012) for Industrial Facilities Tax Exemption Certificate.
- Step 3- The applicant shall submit the Application Fee. The initial fee is \$500.00. The actual fee is calculated based on actual cost but not more than 2% of the total taxes abated during the term the Industrial Facilities Exemption Certificate is in effect. No other fees are allowed by PA 198.
- Step 4 - Applicant is required to file an Affidavit of True Cash Value. PA 198 does not require but the Township does require to assist in the event there is a subsequent challenge by the applicant to its assessment(s).
- Step 5 - The Township will formally schedule a public hearing by Resolution of the Board to consider the request to establish the IDD. Notice is provided to all property owners in the proposed IDD by Certified Mail of the Request.
- Step 6- Public Hearing is held by the Township Board to take any comments from the citizens of the Township or other interested parties. After considering public input the Township Board considers a Resolution to establish the IDD. \*Step 8 maybe completed at the same time.
- Step 7- The Township and the Applicant enter into a written agreement with respect to the Industrial Facilities Tax Exemption Certificate and any applicable conditions.
- Step 8- A Public Hearing is scheduled for consideration of the Application for an IFTE Certificate. This Public Hearing must be held within 60 days of receiving the Application by the Township. Notice must be provided by the Township Clerk by certified mail to the Applicant, the Township Assessor, and to each Taxing Unit that levies Ad Valorem property taxes in the Township (specifically in the IDD).
- Step 9 - If the Township Board passes a Resolution to approve the IFTE Certificate then the Clerk forwards the application to the State Tax Commission by October 31 for the applicant to obtain a IFTE Certificate for the following year.
- Step 10 - If the Township Board passes a Resolution denying the IFTE Certificate then the Clerk forwards the application and resolution to the State Tax Commission notifying them that the Township has denied the request.