



CITY OF PLAINWELL

ACT 198 GUIDELINES

**A policy for the review of requests for tax
abatement under the Plant Rehabilitation and
Industrial Development Districts Act of 1974
as amended.**

INTRODUCTION

This booklet is designed to summarize the policies and procedures adopted by the City of Plainwell, effective June 24, 2004, and as subsequently amended, with regard to the rehabilitation of existing obsolete industrial facilities and the construction of new and expanded industrial facilities under Act 198 of the public Acts of 1974, as amended.

Act 198, the Plant Rehabilitation and Industrial Development Districts Act, was adopted in the State of Michigan as a means of providing a stimulus in the form of significant tax incentives to industry for the purpose of creating new jobs and maintaining existing jobs. It allows an obsolete plant, when replaced or restored, to have its assessed value frozen at the level prior to the improvement for a maximum period of twelve years; and new plants to receive a fifty percent exemption from property tax on the taxable value of new real and personal properties, also for a maximum period of twelve years. It is within the discretion of the City Council to approve abatement certificates for a period of less than twelve (12) years.

The responsibility of the City Council of the City of Plainwell is to establish plant rehabilitation districts and industrial development districts, and to approve the granting of exemption certificates. The Council must find that the granting of the exemption certificate, when considered together with other certificates previously granted, will not substantially impede "the operation of the local government unit or impair the financial soundness of a taxing unit..." prior to granting the exemption certificate.

The Plainwell City Council is desirous of continuing to provide opportunity for industrial development and expansion, and hence the creation of additional jobs for its residents. The Council also recognizes its responsibility to the community to maintain service and uphold the quality of life. To carry out these responsibilities, the City Council established the procedures outlined herein. All Act 198 applications will be evaluated by City staff for compliance with state and local guidelines and the impact the proposed project will have on the City's services.

It is the hope of the City Council that these guidelines will assist the industrial community in its continuing efforts to contribute to the welfare of the community as a whole.

Questions concerning Act 198 tax exemption certificates can be directed to the City Clerk's Office, City Hall, 141 North Main Street, Plainwell, MI, telephone (269) 685-6821, or the City Assessor's Office at (269) 685-6821.

BASIC GOALS AND OBJECTIVES

City Council and staff will evaluate all Act 198 applications in light of the following goals and objectives. These goals and objectives are to be applied equally in the review of applications from both local and out-of-town firms.

- 1 - The project will expand the City's tax base.
- 2 - The City determines that a good public purpose would be served; i.e., expanded tax base and employment.
- 3 - The project will promote diversification of Plainwell's present industrial base in order to lessen the impact of unemployment in the City of Plainwell during recessionary periods.
- 4 - The project will upgrade the City's current labor force by promoting more skilled or technical oriented jobs within the City of Plainwell.
- 5 - The project will increase the City's average income level through the promotion of higher paying jobs.
- 6 - The development of the proposed industrial facilities will compliment the City's land use and environmental objectives.
- 7 - The proposed industrial facilities will be compatible with the City's present and future requirements for City services; such as roads, utilities and public safety.
- 8 - The applicant meets current financial obligations to the City.
- 9 - The applicant is currently in compliance with applicable City ordinances and other statutory provisions, or has received approval of a plan designed to bring the company into compliance with said ordinances or statutory provisions.
- 10 - Promoted industrial growth can and will provide economic stimulus to other private sectors, especially supportive facilities.
- 11 - That a program of overall community awareness and responsibility be developed within the industrial sector.

The above-mentioned criteria are not intended to be exhaustive. The Plainwell City Council reserves the discretion to consider such additional goals and criteria which are intended or set forth under the goals and policies of Act 198 and which are consistent with the general health, safety, and welfare of the City of Plainwell.

GUIDELINES FOR APPLICANTS

The following is a list of steps to be followed by all applicants for tax abatement under Act 198 in the City of Plainwell:

Establishment of an Industrial Development District of Plant Rehabilitation District:

1. Applicants requesting establishment of an industrial development district or plant rehabilitation district must submit an application form (Available at the clerks office), along with a nonrefundable \$500 filing fee. The filing fee covers, in part, costs of processing the application by the City's administrative staff, legal fees, and expenses incurred by the City for publishing appropriate notices. The fee may be amended from time to time by resolution of the City Council.
2. The initial \$500 filing fee covers the cost of establishing the district and the processing of one application in conjunction with that district. Any subsequent application for a certificate filed for which a district has previously been created, or any application for a certificate filed for which a district was created prior to June 24, 2004, shall be subject to a nonrefundable filing fee of \$300 per application.
3. In keeping with the provisions of Act 198, applications for the establishment of industrial development districts or plant rehabilitation districts shall be filed and approved prior to the start of construction or installation of equipment and/or machinery.
4. An applicant for a plant rehabilitation district and certificate for a replacement facility must comply with the provisions of Act 198, including the obsolete industrial property test as set forth in the statute. Unless extraordinary evidence is submitted by the applicant clearly setting forth evidence satisfying the objectives of Act 198, a plant rehabilitation district or certificate for a replacement facility will not be granted for construction on vacant noncontiguous land as set forth in Section 2 (3) (b) of the Act.
5. The application for the establishment of a district will be referred to City staff for study and report to City Council.
6. A public hearing will be scheduled by the City Council to consider the request. The applicant will be notified of the date of the hearing and proper legal notices will be mailed and published.

Industrial Facilities Exemption Certificate Application:

7. If the establishment of a district is approved, or if a district has been previously established, the applicant may proceed with an application for an industrial facilities exemption certificate. The applicant must file the Application for Industrial Facilities exemption Certificate with the Plainwell City Clerk. This form must be obtained from the Michigan State Tax Commission (or the City Clerk's Office). An application for an exemption certificate must be filed within six months after the commencement of the restoration, replacement, or construction of the facility; otherwise, it cannot be considered for approval.
8. The City is required to review the impact of the proposed project on public services. The Company shall submit any supplemental information necessary for this review, including, but not limited to, the following: roads, storm sewers, sanitary sewers, water, electric, police, fire, and zoning.
9. After the Clerk has received the application for an exemption certificate, the application will be referred to City staff for review, with the review process not to exceed 60 days. The matter will then be placed on City Council's agenda, with the applicant notified, hearing scheduled, and appropriate notices mailed.
10. If the real and/or personal property for which an exemption is being sought is covered by a lease, a copy of the lease must be provided with the application, and the following will be required as terms of the lease:
 - a. The lease must be in effect for the same period of time as the tax abatement that is being requested. For example, if the Industrial Facilities Exemption Certificate is being requested for a period of twelve (12) years, then the lease must be for at least twelve (12) years.
 - b. The lease must specify that the entity receiving the tax abatement is also responsible for the payment of taxes on the property and/or machinery included in the request.
11. Prior to consideration of an application by the City Council, the applicant will be required to enter into a written agreement with the City of Plainwell, outlining conditions to be upheld during the period of the abatement. This agreement will be provided by the City, and is required under State law. The applicant will also be required to sign an affidavit which states that no payment of any kind in excess of the fee allowed by Act 198 has been made or promised in exchange for favorable consideration of the application.

12. Final approval of the exemption certificate will be decided by the City Council. The City Council may exercise its discretion to determine the length of the Act 198 Certificate in accordance with the objectives set forth in these guidelines and the general health, safety, and welfare of the City of Plainwell. The City of Plainwell reserves the right to re-examine the period of time for which abatements on personal property are granted, and to reduce that time period to less than twelve (12) years.

Transfers

13. If a request is made for the transfer of personal property covered by a previously approved Industrial Facilities Exemption Certificate from one site to another, the request shall be considered only if the original value of the equipment being transferred is more than 25% of the total value of all personal property approved on the aforementioned certificate; provided, however, that no transfers where the original value of the personal property to be transferred is less than \$50,000 shall be considered. A fee of \$300 per certificate shall be paid at the time a transfer request is filed. This provision applies only to personal property transferred between sites within the City limits of the City of Plainwell.
14. The transfer of an existing certificate by the holder of a Certificate to a new owner or lessee requires the filing of a complete application for Industrial Facilities Exemption Certificate, payment of the full \$300 fee, and approval by the City of Plainwell after the appropriate public hearing (completion of items 6-10 as listed above).

Cost Overruns and Extension of Completion Dates

15. In accordance with R 209.54, Administrative Rules of the State Tax Commission, if the final cost of a project, either the real or tangible personal property components, will be greater by more than ten percent (10%) of the total estimated amount provided in the application as originally approved, the applicant must file a request with the City to approve the revised amount. This request may be filed in the form of a letter submitted to the City Clerk's Office, stating the original cost, the revised cost, and the reason(s) for the increase in costs. This procedure cannot be utilized to expand the scope of the project as originally approved, but only to cover increased costs on those items previously approved. If the local unit of government approves the revised costs, the holder of the certificate shall request that the commission issue a revised certificate. The request shall be accompanied by a copy of a resolution of approval adopted by the local governmental unit.

16. In accordance with R 209.53, Administrative Rules of the State Tax Commission, if the holder of an Exemption Certificate finds that the project will not be finished by the time originally stated on the approved application, a request for the extension of time for completion of the project must be filed with the City. This request may be filed in the form of a letter submitted to the City Clerk's Office, stating the original completion date, the revised completed date, and the reasons for the requested time extension. The City has the option of denying the request, approving the request with no change in the ending date of the certificate as originally issued, or approving the request and a revised ending date on the certificate. Normally, the City's policy and procedure when approving a time extension is to approve it with no change in the ending date of the certificate, unless there are extenuating circumstances presented by the applicant to be considered by the City Council and Staff. A 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 governing unit.
17. In accordance with R 209.55, Administrative Rules of the State Tax Commission, the holder of an Exemption Certificate shall notify the local assessing officer and the Commission of the date of completion of the project. The notification shall be filed within 30 days of completion. The final cost of a facility shall be filed with the local assessing officer and the commission within 90 days after completion.

Speculative Buildings:

18. A speculative building is defined as "a building and the machinery, equipment, furniture, and fixtures within that was constructed as a manufacturing facility before the identity of the tenant/operator was known". The legislative body of the local governmental unit must approve the property as speculative building under PA 198 by formal resolution. This action would enable a future tenant or operator of a manufacturing business to apply for an industrial facilities exemption certificate; provided that 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 state law for an industrial facilities exemption certificate. This resolution is in addition to the establishment of an Industrial Development District, and items #1-5 as indicated above must be completed prior to the start of construction of the project. The resolution establishing the building as a speculative building must be adopted within six (6) months after the commencement of the facility. IN addition, an industrial facilities exemption certificate issued for a speculative building shall remain in 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 not more than 11 years after the effective date of the certificate.

Deadlines

19. Applications for Industrial Facilities Exemption Certificates may be submitted to and considered by the City of Plainwell at any time during the calendar year. However, in order for a certificate to be considered and approved by the City of Plainwell and the State Tax Commission by December 31 of any given year, the following deadlines will apply:
20. The application must be filed with the City of Plainwell on or before September 1. The City of Plainwell must act on and forward the application to the State Tax Commission on or before October 31 (R 209.57).