



# Charter Township of Orion

Oakland County, Michigan

## Tax Abatement Policy

*Whereas*, the Charter Township of Orion is desirous of providing a stable tax base as a means of providing for the needs of its residents; and

*Whereas*, an industrial tax base often generates more revenue than it consumes in services; and

*Whereas*, the State of Michigan has adopted laws that encourage industrial development by allowing for the granting of property tax relief by the municipality; and

*Whereas*, the Charter Township Orion desires to make use of said laws,

*Therefore be it resolved*, that the Charter Township of Orion does hereby adopt the following industrial tax abatement policy:

### Purpose

This policy, and its attached exhibits, sets forth the scope, procedures and process for consideration of requests for the granting of tax abatement in the form of Industrial Facility Exemption Certificate(s) (IFECs) consistent with the provisions of Michigan Public Act 198 of 1974, as amended (MCL 207.551 et seq.), and Public Act 206 of 1893, as amended (MCL211.1 et seq.), with the intent of:

- ❖ Allowing the Township to administer a program which is efficient, effective, business-supportive, and accountable.
- ❖ Encouraging business growth, retention, and attraction.
- ❖ Strengthening the long-term competitiveness of local business and industry.
- ❖ Retaining and creating base manufacturing jobs.
- ❖ Generating new property tax dollars for the Township.
- ❖ Enhancing the skills and employability of the unemployed, underemployed, and employed persons within the region.

### Scope

This policy applies to all P.A. 198 of 1974, as amended, applications within the Charter Township of Orion. In addition, this policy also applies to P.A 206 of 1893, as amended by P.A. 328 of 1998, applications which shall be considered on individual merit alone, without regard to any duration or other criteria set forth herein.

### Summary of Procedure

Application shall be made on forms provided through the office of the Orion Township Supervisor accompanied by documents required for application for an IFEC as listed on attachment B.

Completed applications, including all required supporting documentation, shall be filed with the Orion Township Clerk along with a non-refundable application fee of \$1,000.00 to cover the cost of processing, advertising and required public hearing(s). Incomplete applications, as reviewed by the Orion Township Clerk shall not be accepted.

Accepted applications will be placed on an available Board agenda to schedule a public hearing. At the public hearing the applicant may present a summary of the application and supporting materials and answer questions from the Board. Upon the close of the public hearing the Board will take action regarding the application, including a determination of approval, number of years included in the certificate, and other permitted conditions.

## Policy

1. The following standards will be applied to each request to receive an Industrial Facilities Exemption Certification (IFEC):
  - IFEC applications in approved Industrial Development Districts and/or Plant Rehabilitation Districts may be approved for an initial period of up to six (6) years, subject to allocation of personal and real property taxes in accord with the statute.
  - The Township may require an evaluation after two (2) years. If at the two (2) year evaluation the company has met the commitments agreed to in the Industrial Facilities Tax Exemption Agreement, an additional six (6) years may be granted for a maximum real/personal abatement of twelve (12) years. Provisions of P.A. 198 of 1974, as amended by P.A. 94 of 1996 shall be utilized by the Township when considering such an extension.
  - Tax abatements may be granted by the Township Board, at its sole discretion, for the purpose of strengthening the competitive operation of applicant businesses.
  - Each IFEC holder shall be required to enter into a legally-binding agreement with the Charter Township of Orion, under the provisions of P.A. 198 of 1974 as amended by P.A. 334 of 1993, covering, but not limited to, such matters as;
    - continuation of operations in the Township,
    - payment of taxes,
    - timely reporting for annual personal property statements,
    - annual submission of reports including the company's community support activities, and
    - non-discriminatory hiring practices.
  - Job creation and retention commitments by the company shall be for the duration of the exemption certificate. In the case of job retention, the burden of proof is on the applicant to show how the approval of the tax abatement would avert substantial job loss.

- Certificate holders are encouraged to provide training to upgrade the skills of its employees so as to support their advancement to higher-paying jobs in the company.
  - Certificate holders are required to provide the Township with documentation of good faith efforts to consult with Michigan Works to review job applications of Township residents who have completed or participated in local employment training programs, prior to filling new jobs in its facilities.
  - The Township will not grant tax abatement for office equipment such as furniture and fixtures, either in Plant Rehabilitation or Industrial Development districts. However, computers and computer-related equipment shall be eligible items considered for tax abatement.
  - To be eligible for a tax exemption certificate, the applicant shall not be delinquent in its payment of any local taxes.
  - A certificate holder shall annually file a report in the Township Supervisor's office by August 15th of each year during the life of a IFEC regarding its record of job retention and job creation, the number of Orion Township residents hired during the time period of the report, any community support activities, and other business information that will assist the Township in evaluating the companies activities and helping the Township build economic stability. Annual reports must be posted by the certificate holder on-site for at least thirty (30) days after being submitted to the Township to allow review by company employees. The Township Clerk and Supervisor will file a report to the Township Board on the status of IFEC's in Orion Township not later than October of each year.
  - Under certain conditions the Township may consider an applicant eligible for a combination of P.A. 198 of 1974, as amended, and P.A. 328 of 1998 tax abatement. This is in the sole discretion of the Township.
2. Plant rehabilitation projects qualify for approval only if there is a change in use, a change in ownership, or the value of the project substantially exceeds the statutory minimum requirements (10%), and the project is not attributable to delayed or deferred maintenance.
  3. The Township may require a statement of intent by an applicant seeking to establish a Plant Rehabilitation district regarding the scope and nature of its Plant Rehabilitation project. The Township shall retain the right to dissolve the district if the applicant's subsequent application is not consistent with the statement of intent.
  4. The Township may dissolve all, or a portion of, Plant Rehabilitation districts after an Industrial Facilities Exemption Certificate (IFEC) is issued.

5. The applicant shall agree that should ownership of the business and/or facility for which a IFEC is issued be changed in the future, thereby requiring a hearing before the Charter Township of Orion Board of Trustees under state law, the transferee or new owner shall abide by all the terms and conditions originally granted.
6. A tax exemption certificate may be revoked if a certificate holder:
  - a. fails to meet the terms of its certificate agreement, including payment of taxes and assessments;
  - b. abandons its facilities; or
  - c. fails to complete construction or rehabilitation of a facility within two (2) years as required by statute.

### **Effective Date**

June 22, 2010

### **Attachments**

Exhibit A – Definitions

Exhibit B – Checklist of Documents Required for Application for IFEC

Exhibit C – Act 198 Agreement Form

Exhibit D – Information summary and Affidavit of Fees

### **See Also**

Michigan P.A. 198 of 1974; P.A. 334 of 1993; and P.A. 94 of 1996. Any conflict between this policy and state law shall be controlled by state law.

## **EXHIBIT A**

### **Definitions**

**Plant Rehabilitation District:** A Plant Rehabilitation District is established by a finding and determination that property aggregating not less than 50% of the State Equalized Value (SEV) of the industrial property within the district is “obsolete”.

**Obsolete Industrial Property:** Means a manufacturing plant which is currently operating at below-efficiency levels and requires a major investment in the way of equipment replacement or structural changes, or both, to eliminate or reduce the cause of inefficiency and enable the company to continue to operate in a more competitive and more economic situation. Under the law, industrial property is considered obsolete if its condition is in substantially less than an economically efficient functional condition. In other words, the desirability and usefulness of this property is impaired due to the need for changes in design, construction, technology or improved production, processes or because of external influencing factors which make the property less desirable and valuable for continued use.

**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.

**Restoration:** Indicates changes to obsolete industrial property, other than replacement, which are needed to eliminate that condition of obsolescence. Generally speaking restoration means major renovation of obsolete industrial property. If the planned improvements amount to less than 10% of the true cash value of the industrial property, they will be considered delayed maintenance and will not be eligible for tax exemption.

**Replacement Facility:** Is an industrial property which is designed to replace existing obsolete industrial property located within a plant rehabilitation district. Most “replacement facility” projects will fall within one of the following categories:

- **Total rehabilitation of an existing plant:** A manufacturing facility can no longer operate efficiently due to obsolescence. The company proposes to restore the plant by improving the buildings and replacing machinery throughout the plant; or the plant may be so obsolete that rather than restore the same, the company finds it more economical to replace the old plant with a new one. This is allowed as long as the replacement plant is built within the same municipality where the old plant is situated.
- **Partial rehabilitation of an existing plant:** If only a portion of an existing plant is obsolete and the company proposes to rehabilitate this portion by improving the building and replacing the obsolete property within the obsolete section of the plant, then this particular section of the plant can be certified for exemption while the remaining portion will continue to be fully taxable.
- **Rehabilitation of buildings only:** If the obsolescence affects only the buildings and the company plans to restore the same or replace them with newly constructed buildings while continuing to use the same machinery and equipment as before, then the exemption will apply to the real property only while the personal property will remain advalorem taxable.

*Exhibit A – Definitions, continued...*

**New Facility:** Is industrial property (other than a “replacement facility”) to be built in a plant rehabilitation district or industrial development district. Most “new facility” projects will fall within one of the following categories:

- **A completely new plant:** A new company proposes to construct a new building and equip the same with new machinery and equipment to begin a new manufacturing operation. Or this may be an existing company that is proposing to branch out at another location.
- **An expansion of an existing plant:** A growing company wants to expand its capacity and proposes to build an additional to the existing building and purchase new machinery and equipment to be housed in the new addition.
- **A new plant developed from an existing shell building or other existing building:** A company acquires an existing shell building or other unused building and proposes to utilize the same for manufacturing. The “new facility” will, in this case, encompass the acquisition and installation of any new machinery and equipment and the value of any changes and additions to the existing structure which are needed for the new plant.
- **A new building:** A company proposes to construct a new building but plans no new machinery and equipment acquisitions. This may occur when the company’s existing facilities will no longer be available (expiration of lease) or adequate, and new facilities are needed to continue operating. The “new facility” project will only cover the new building, as the company plans to continue using their existing machinery and equipment. The construction of a warehouse will also fall under this heading when no personal property acquisitions are required as part of the project.
- **New machinery and equipment only:** These are projects involving no new construction. They cover cases in which new plants are developed utilizing existing buildings which require only minor changes. They also cover cases in which new machinery and equipment is acquired (to expand capacity or add a new line) and the same is installed within the existing plant.

**EXHIBIT B**  
**Checklist of Documents Required for Application for  
Industrial Facilities Tax Exemption (IFT) Certificate**

**CHARTER TOWNSHIP OF ORION**  
**2525 JOSLYN RD., LAKE ORION, MI 48360; (248) 391-0304**

**Please include the following required information with a completed application package and submit all materials to the Orion Township Clerk's Office.**

- One (1) completed original and three (3) copies of the completed IFT Certificate Application form (Form L4380) as established by the State Tax Commission. The application can be obtained by visiting the State Treasury website at [www.michigan.gov/treasury](http://www.michigan.gov/treasury), then scroll down to the "Treasury Forms" box and click on: Property Tax Forms, then Property Tax Abatement/Exemption. This form will ask the application to provide the following:
  - A complete list of new machinery, equipment, furniture and fixtures which will be used in the facility. The list should include description, type, identification, date of (expected) acquisition/installation by month/day/year, and (expected) cost.
  - If construction has already commenced, proof of the date construction started (groundbreaking) such as building permits, footing inspection reports, certified statements or affidavit from the contractor. Start of construction may not occur more than six (6) months before the filing of this application (§207.559(2)(c) of PA 198 of 1974).
  - Verification that the petitioner bears the tax liability for both ad valorem and personal tax for the subject property. You may use the Affidavit of Ownership form.
  - Two (2) copies of Proof of Ownership; Land Contract, Affidavit of Land Contract, Option/Purchase Agreement, Deed, etc.
  - An accurate legal description showing the specific location of the property within which the proposed exempt use will take place.
  - An application fee in the amount of \$1,000.00.

**APPLICANTS TAKE NOTICE OF THE FOLLOWING:**

1. **Legal Basis.** This application packet was prepared in accordance with Public Act 198 of 1974, as amended. All section references, except where otherwise noted, refer to this Act.
2. **Submitted Deadline.** Submittal of an IFT application **MUST** be received by the Township no later than six (6) months after commencement of the project. The Industrial Development District must be established before an IFT application can be accepted.
3. **Attendance Required at Public Hearing.** The Orion Township Board of Trustees requires the Petitioner or their Representative to be present at the public hearing, otherwise the item will be tabled to another meeting date.

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**INDUSTRIAL FACILITIES TAX EXEMPTION (IFT)  
CERTIFICATE REVIEW PROCESS**

**STEP 1:** Applicant submits a completed application form as prescribed by the State Tax Commission. Items required include a general description of the facility and its proposed use, the general nature and extent of the proposed restoration, replacement or construction, a descriptive list of equipment that will be part of the facility and a timeline for the project.

**STEP 2:** The Clerk's Office will verify that the property in question is located in a previously established IDD. If an IDD has not already been established, the applicant must first request the Township Board establish a district as required by law.

**STEP 3:** The Clerk's Office will send a copy of the application to the Township Attorney for review and verification. A copy is also sent to the Township Assessor for their files.

**STEP 4:** If approved by the attorney, the item will be placed on the next available Board of Trustees agenda for consideration of the application. The Board of Trustees will set a public hearing date.

**STEP 5:** The item is placed on the next available Board of Trustees agenda for a public hearing (see MCL 207.555 (2)). Notice of the hearing shall be sent by regular mail to the Township Assessor and the legislative body of each taxing unit within the district that collects ad valorem taxes (see MCL 207.555 (2)). **The applicant must be present at the public hearing.**

**STEP 6:** The Clerk's Office drafts a Resolution and Abatement Agreement, according to State requirements, for consideration by the Board to either approve or disapprove the application.

**STEP 7:** The Board holds the public hearing and takes action on the request. The Board shall, by resolution, state its decision to either approve or disapprove the application. If denied, the reasons shall be set forth in writing in the resolution. If approved, the Board shall set the number of years for which the district will be valid and they will instruct the clerk to sign the resolution (see MCL 207.556).

**STEP 8:** The Township and the operator of the facility will execute an agreement outlining the conditions and recourses to be upheld during the abatement period.

**STEP 9:** If necessary, Forms T-1044A and/or T-1044, as created by the State Tax Commission, shall be completed. These are necessary if the abated SEV exceeds 5% of the Township's total SEV.

**STEP 10:** If the application is approved, the Clerk shall forward the application, resolution and other necessary information to the State Tax Commission (see MCL 207.556).

**STEP 11:** After review by the State Tax Commission, they will send the Industrial Facilities Exemption Certificate, or notice that the application was denied, to the Township by certified mail (see MCL 207.557(2)).

**STEP 12:** A copy of the Exemption Certificate shall be kept for the file, and another sent to the Assessor's Office for implementation.



**EXHIBIT C  
ACT 198 AGREEMENT FORM**



**CHARTER TOWNSHIP OF ORION  
OAKLAND COUNTY, MICHIGAN  
ACT 198 AGREEMENT**

*This agreement* is between the Charter Township of Orion, a local governmental unit, whose address is 2525 Joslyn Rd., Lake Orion, Michigan 48360, and

\_\_\_\_\_, a \_\_\_\_\_  
hereinafter referred to as the "Applicant", whose address is: \_\_\_\_\_  
\_\_\_\_\_

**WHEREAS**, the Charter Township of Orion is willing to approve the granting of an Act 198 Exemption Certificate, pursuant to Michigan Public Act 198 of 1974, as amended;

**AND WHEREAS**, Michigan Public Act 334 of 1993 requires that an Applicant and a local unit of government enter into an agreement as a condition to the approval of an Exemption Certificate;

**AND WHEREAS**, the Charter Township of Orion has established certain terms and conditions in order for an Exemption Certificate to be approved;

**AND WHEREAS**, the Applicant is willing to accept and be bound by such terms and conditions in order to receive an Exemption Certificate which will grant tax relief to the Applicant.

**NOW THEREFORE**, the Charter Township of Orion and the Applicant agree as follows:

1. Exemption Certificate. The Charter Township of Orion hereby approves of the granting of an Exemption Certificate by the State of Michigan in accordance with its resolution approving the same for an application received on \_\_\_\_\_, 20\_\_\_\_, with an estimated project cost of \$\_\_\_\_\_.
2. Terms and Conditions. The Applicant hereby agrees that in exchange for receiving such tax benefits as are permitted to holders of an Exemption Certificate that it shall be bound by the following terms and conditions during the time period the Exemption Certificate is in effect:
  - A. That all utility bills to the Charter Township of Orion are paid within thirty (30) days of billing;
  - B. That all property tax bills are paid prior to such due dates after which interest would accrue;
  - C. That all assessments, fees, and/or charges which may be incurred or levied in the development of the property are paid without protest or challenge;
  - D. That the Applicant provide information periodically as requested by the Charter Township of Orion and permit the Charter Township of Orion and its agents to inspect the property and records of the Applicant during the term of the Exemption Certificate so as to verify property values and employment levels;

*Exhibit C – Act 198 Agreement Form,, continued...*

- E. That the Applicant maintain employment levels in the Charter Township of Orion as proposed in its application; and,
- F. That the Applicant abide by all ordinances and regulations of the Charter Township of Orion, subject, however, to such exceptions as may be granted by a public body empowered to grant a legal exception to an ordinance or regulation of the Charter Township of Orion;
- G. The Applicant is at all times in compliance with all federal, state and local laws, regulations and ordinances concerning environmental matters.

3. Revocation Reservation. The fulfillment of the conditions of this Agreement provided for in Paragraph 2 is a purpose for which the Certificate of Exemption was approved by the Charter Township of Orion, in addition to the purposes established by law. Failure to uphold these conditions will be considered to be operating the facility in bad faith in a manner not consistent with the purposes of Act 198 of the Public Acts of Michigan, 1974, as amended, and will be considered to be circumstances within the control of the holder of the Exemption Certificate justifying the revocation of the Exemption Certificate.

The Township Board of the Charter Township of Orion retains the right to revoke any Exemption Certificate for violation of any of the conditions stated in Paragraph 2 above. If the Applicant within three (3) years of commencing the operation after receiving an Industrial Facilities Exemption Certificate moves the operations outside the Charter Township of Orion, then all of the abated tax will be paid to the Charter Township of Orion. If the operations leaves after three (3) years but before six (6) years have expired, then one-half of the abated tax will be returned. After six (6) years no penalty will be applied. Likewise, if an Exemption Certificate is revoked for any of the reasons stated in Paragraph 2, then the same repayment of tax schedule shall be applied as if the Applicant had moved its operations outside of the Charter Township of Orion.

4. Effect. This Agreement shall be binding upon the Charter Township of Orion and the Applicant, and upon their successors and assigns. This Agreement shall be interpreted in accordance with the laws of the State of Michigan. Upon default, the other party shall be liable to the non-defaulting party for the reasonable attorney fees and court costs which may be incurred in enforcing a term or condition of this Agreement. This Agreement represents the entire Agreement of the parties, and replaces any prior oral, written or implied agreement of the parties. This Agreement may only be amended upon the mutual written agreement of the parties.

**In witness thereof on the dates hereinafter indicated:**

Witness:  
\_\_\_\_\_

Township: \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Witness:  
\_\_\_\_\_

Applicant: \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT D  
INFORMATION SUMMARY & AFFIDAVIT OF FEES**

**The Charter Township of Orion, Oakland County, Michigan  
Act 198 Information Summary**

Name of Applicant: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

1. SIC Number: \_\_\_\_\_

2. Type of Product(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Year of Establishment of the Business: \_\_\_\_\_

4. Number of years the business has been located in the Charter Township of Orion: \_\_\_\_\_

5. If not in the Charter Township of Orion, number of years in community where presently located: \_\_\_\_\_

6. Total employment in the Charter Township of Orion:

	Current	Projected (next 12 months)
Full-Time	_____	_____
Part-Time	_____	_____
Temporaries	_____	_____
<b>TOTAL</b>	_____	_____

7. Estimate of how many projected new jobs will be provided: \_\_\_\_\_

*Exhibit D – Information Summary & Affidavit of Fees, continued...*

**Industrial Facilities Tax Exemption Affidavit of Fees**

In accordance with State Tax Commission Bulletin No. 3 dated January 1998, the Local Unit and Applicant for Industrial Facilities Exemption Certificate do hereby swear and affirm that no payment of any kind, whether they be referred to as “fees”, “payments in lieu of taxes”, “donations”, or by other like items, such payments are contrary to the legislative intent of Act 198 that exemption certificates have the effect of abating all ad valorem property taxes levied by taxing units with the unit of local government with which approves the certificate.

We do swear and affirm by our signatures below that “no payment of any kind in excess of the fee allowed, as amended by Public Act 323 of 1996, has been made or promised in exchange for favorable consideration of an exemption certificate application”.

**Charter Township of Orion**

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**Applicant/Company**

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_