Property Tax Incentive Policy

Effective - October 24, 2016

I. Purpose and Intent

Property tax incentives are an important tool that can be utilized to promote economic activity, increase and retain employment, and provide incentives for investment in property that increase the tax base of the City of Auburn Hills.

The purpose of this policy is to inform the business community, and provide procedures and criteria for City Council and administrative staff in reviewing and determining the merits of applications for real property tax abatements, exemptions, or incentives submitted to the City.

The definitions, procedures, and criteria provided in the policy are established as guidelines. The City Council reserves the right to consider exceptions to these guidelines, subject to the legal requirements established under the statutes of the State of Michigan**,** based on the merits and circumstances of each application and request.

II. Definitions

A. *Eligible Businesses* - an eligible business is an industrial or commercial use or entity, whether sole ownership, partnership or corporation that meets the criteria established in State law for eligibility for tax incentives

B. *Existing Business* - a single proprietorship, partnership or corporation that has a facility operating within the corporate limits of the City of Auburn Hills for which a certificate of occupancy has been issued, in which operations and/or business of the facility is taking place in substantially all of the facility and in which the corporation has been operating under a certificate of occupancy for at least one (1) year.

C. *Facility* - an industrial property that qualifies as a replacement facility, a new facility, or, if applicable by its usage, a speculative building as defined by PA 198, 1974 as amended. Incentives approved as industrial property under PA 198 are issued an Industrial Facility Exemption Certificate (IFEC).

D. *Qualified Facility* - a qualified retail food establishment or a building or groups of contiguous buildings of commercial property that is 15 years old or older or as further defined by PA 210, 2005, as amended. Incentives approved as a Qualified Facility under PA 210 are issued a Commercial Rehabilitation Exemption Certificate (CREC).

E. *New Business* - a new business is a sole proprietorship, partnership or corporation which does not currently have operations within the corporate limits of the City of Auburn Hills.

F. *New Owner or Lessee* – for those incentives that pertain to real property improvements, the term "new owner or lessee" shall be defined as follows:
   a. A new entity that acquires, owns and occupies or leases and occupies the facility after the existing certificate holder has physically moved from or vacated the facility; OR
   b. An entity that acquires an ownership interest of more than 50% in the existing certificate holder entity that owns and occupies or leases and occupies that facility.

G. *Personal Property* - machinery, equipment, furniture, fixtures and similar items as defined in the General Property Tax Act and that are utilized by the business in producing the end product or service of the business and real property assessable as personal property.

H. *Real Property* - land, buildings, parking lots, utilities and similar items as defined in the General Property Tax Act and as assessed for property tax purposes.

I. *Speculative Building* - as defined in Public Act 198 as amended.

III. Projects Eligible for Property Tax Incentive Consideration

A. *New Facility (IFEC)* - Industrial real property and land improvements, other than a replacement facility to be built or installed in a plant rehabilitation district or industrial development district by an existing business or a new business, as provided in PA 198, 1974 as amended may be granted a 50% tax incentive for real property applications approved by the City Council based upon the criteria included in Section IV of this policy. The minimum investment in a facility shall have an estimated construction value of $2,000,000. *For purposes of clarification, no personal property tax incentive requests will be approved by the City Council.*

B. *Replacement or Rehabilitation of Obsolete Industrial Property (IFEC)* - Real property which meets the definition of obsolete property as contained in the Plant Rehabilitation and Industrial Development Districts Act 198 of 1974 and is included within a plant rehabilitation district and which is proposed for occupancy by either a new business or an existing business and which will require restoration or replacement as defined in the Plant Rehabilitation and Industrial Development Districts Act 198 of 1974 may be granted a 100% tax incentive based upon the criteria included in Section IV of this policy and with the following considerations:
   1) The planned investment must correct functional obsolescence.
   2) The minimum investment in a facility shall have an estimated construction value of $2,000,000.

C. *Rehabilitation of Obsolete Commercial Property (CREC)* - Real property, including land improvements, which meets the definition of a Qualified Facility and is included within a qualified commercial rehabilitation district and which is proposed for occupancy by either a new business or an existing business and which will require rehabilitation as defined in the Commercial Rehabilitation Act PA 210 of 2005, may be granted a 100% tax incentive based upon the criteria included in Section IV of this policy and with the following considerations:
   1) The planned investment must correct functional obsolescence.
   2) The minimum investment in a facility shall have an estimated construction value of $2,000,000.

D. *Transfers* - A transfer of an existing IFEC or CREC may be granted if a new business or existing business purchases or leases property which has an existing certificate in effect pursuant to the provisions of PA 198,1974 or PA 210, 2005, as amended.

E. *Extension of Existing Certificates* - No IFEC or CREC extensions will be authorized.

IV. Property Tax Incentive Criteria

A. *Length of Property Tax Incentive* – The length of the IFEC and CREC for real property incentives authorized by the City Council are subject to the following investment levels:

Incentive Time Period	Minimum Investment	Maximum Investment	Business Residency
Up to four (4) years	$2,000,0000	$9,999,999	See Item C below
Up to six (6) years	$10,000,000	$24,999,999	
Up to eight (8) years [1]	$25,000,000	N/A	

[1] Rehabilitation 100% tax incentive certificates shall not exceed six (6) years

B. *Type of Investment* - Investment in real property should include buildings and ancillary facilities associated with the buildings but not include investments made by developers and/or the corporations with items such as water, sewer, streets and other off site development costs.

C. *Business Residency Requirement* - As a condition of receiving an IFEC or CREC pursuant to this policy, a business agrees to operate the facility for which the certificate is granted for the term of the certificate plus an additional term after the date of expiration of the certificate equal to one year of business residency per abated year. For example, a six (6) year abatement will require a twelve (12) year business residency. *Special Exception: a business eligible for an eight (8) year abatement will only be required to satisfy a twelve (12) year business residency period, in lieu of a sixteen (16) year business residency period.*

1) Length of Lease Term - A business requesting tax incentives for a facility under a lease must provide a lease that includes an initial length of lease equal to the business residency as outlined in this Section. Options to extend a lease will not be counted as part of the initial term of the lease.
2) Repayment of Tax Incentive - If a business vacates or fails to operate the facility for which the certificate is granted for the period of time as outlined in this Section, then it shall be liable for repayment of any property tax savings benefiting the business due to the existence of the certificate, beginning with the initial effective year of the certificate.
3) Waiver of Repayment of Tax Incentive - The repayment back taxes required by the business residency requirement may be fully or partially waived by the City Council at the request of a business. The City Council may consider, at its sole discretion, the following criteria when considering a waiver request:
    a. The business is ceasing to operate as a result of circumstances beyond its control, such as natural disasters, unforeseen industry trends, and/or loss of a major supplier or customer.
    b. The business sells the facility and/or operations to another business.
    c. The business has made a substantial investment in another project or projects in the City.

d. Property taxes and jobs have increased at another location owned by the business in the City.
e. The business has made an effort to be a part of the City with employee volunteer assistance and charitable endeavors.

V. Property Tax Incentive Approval Process and Agreement Compliance

A. *Staff Review and City Council Approval* - The business shall prepare and file on forms supplied by the City an application for a project eligible for tax incentives which shall include such information as the City Assessor may deem as required to have sufficient information to review and make a recommendation on the final application. The information required shall in all cases include as a minimum all information that is required by statute and by rules of the State Tax Commission.

In addition, the business shall include an executed copy of a Tax Incentive Agreement in a form prepared by the City and approved by the City Attorney. The application, the Tax Incentive Agreement and all auxiliary information shall be reviewed by the City Assessor, and forwarded to the City Council with any comments from the Assessor and an analysis as to whether or not the application meets the criteria established.

The City Council shall review the application and all supporting information and make a determination as to whether or not the application should be approved in accordance with the adopted policy. If the City Council approves the application and the Tax Incentive Agreement, the City Assessor shall cause the application to be forwarded to the State Tax Commission for final review and action. Applications for transfer of an existing certificate shall be reviewed by the City Assessor, and if deemed to be in accordance with the adopted policy shall be submitted for approval to City Council.

B. *Tax Incentive Agreement Compliance* - The business shall be bound by and shall comply with all terms of the Tax Incentive Agreement approved by the City Council. If the City Council at any time determines that the business is in violation of the terms of the agreement or of any other criteria contained in this policy or in State Law, the City Council may notify the business of its intent to hold a public hearing on a possible recommendation to the State Tax Commission that the incentive, abatement, or exemption certificate be revoked.

1) The repayment terms outlined in Section IV and stipulated in the Tax Incentive Agreement may be enforced, should a holder of a certificate not fulfill the terms of this policy or the terms of the Agreement.
2) Should the City become aware that the terms of the Agreement have been violated; the City of Auburn Hills Finance Director may immediately send an invoice for taxes owed, per the Agreement, to the owner or lessee of the facility for which tax incentive has been granted.
3) If necessary, the City Attorney may initiate court proceedings to enforce collection of taxes owed under the terms of the Agreement.

C. *Transfer of Ownership* - Whenever there is a new owner or lessee, as defined in Section 2.F, of any real property for which an IFEC or CREC has been granted, the new owner or lessee shall make application for a transfer of the certificate to the new owner or lessee immediately, but no longer than six (6) months after a change in ownership occurs. The City Council may grant requests to transfer existing certificates provided requests are consistent with this policy or any amendments made to this policy in effect at the time a request for a transfer is made. An updated Tax Incentive

Agreement shall accompany any request for a transfer of an IFEC or CREC to a new owner or lessee.

VI. Operational and Reporting Requirements

The following operational and reporting requirements shall apply to all businesses receiving tax incentives for real property and shall be enforceable on any and all business, including their successors whether or not included in the Tax Incentive Agreement executed between the City and the business.

The intent of the operational and reporting requirements is to assure that the business fulfills the obligations contained in the Tax Incentive Agreement and the application and auxiliary information supplied to the City by the business. The operational and reporting requirements also include requirements for reporting to the City any changes in investment levels and to require advance notice to the City of any intent to relocate any current business operations located within the corporate limits of the City of Auburn Hills.

The business shall report to the City as required in the Tax Incentive Agreement between the City and the business.

VII. Additional Requirements

A business receiving a tax incentive from the City further agrees:

A. To pay the abated real property taxes timely and without penalty. In addition, the business agrees to inform the City Assessor and the City Treasurer of any plans to relocate the business from any location within the City no later than 90 days prior to the relocation.

B. To notify the City Assessor and City Treasurer of any change in the ownership of the business's real property assets or a majority share of the business's stocks.

C. To abide by all other city ordinances, building and zoning codes during the operation of the facility.

D. The certificate will begin as of the date issued by the State of Michigan.